

SYDNEY SOUTH PLANNING PANEL - ASSESSMENT REPORT

Panel Reference	2018SSH001
DA Number	484/2017
LGA	Canterbury Bankstown Council
Proposed Development	Demolition of existing structures, removal of trees and construction of four (4) x eight (8) storey shop top developments with 150 residential apartments. The amended proposal includes a ground level plaza, retail premises (including a supermarket), land dedication for new lane works along the rear, third slip lane on Lakemba Street by Voluntary Planning Agreement and three levels of basement car parking.
Street Address	280-300 Lakemba St and 64-70 King Georges Rd, Wiley Park
Applicant/Owner	<u>Applicant:</u> Lakemba Street Development Pty Ltd c/o Urbis Pty Ltd <u>Owner/s:</u> Lakemba Street Development Pty Ltd
Date of DA lodgement	8 December 2017
Number of Submissions	Two (2) Submissions
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Part 4, Clause 20(1) of the SEPP (State and Regional Development) 2011 the application is declared as regionally significant development. Schedule 7 includes 'General Development over \$30million'. The proposal has a capital investment value of \$46,167,806.45 and therefore falls within this category.
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • Water Management Act 2000 • State Environmental Planning Policy 55 – Contaminated Land (SEPP 55) • State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) • State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007) • State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX) • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Canterbury Local Environmental Plan 2012 (CLEP 2012) • Canterbury Development Control Plan 2012 (CDCP 2012) • Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)
List all documents submitted with this report for the Panel's consideration	• Architectural plans • SEE including Clause 4.6 to vary building height • Traffic and Parking Report • Landscape Plans • Civil and Stormwater Plans • Waste Management Plan • Arborist report
Clause 4.6 requests	• Canterbury Local Environmental Plan 2012 (CLEP 2012);

	• The Clause 4.6 relates to Clause 4.3 Height of Buildings of the CLEP 2012 • The subject site is in a B2 Local Centre Zone
Summary of key submissions	• The number of apartments proposed is excessive. • The proposed development will result in adverse traffic and parking impacts. • Insufficient parking provided for two-bedroom apartments and visitor parking. • Greenery or privacy screening should be incorporated along the eastern elevation of the eastern building to improve visual appearance of the site to adjoining properties. • The design should conform to the design criteria of the ADG Apartment Design Guides design quality principles regarding building height, depth, visual privacy, natural ventilation and communal open space.
Report prepared by	Alice Pettini –Executive Planner
Report date	25 November 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY REPORT

This matter is reported to the Sydney South Planning Panel as the development application proposes a development that exceeds a capital investment value of \$30 million in accordance with Schedule 7(2) of State Environmental Planning Policy (State and Regional Development) 2011.

Development Application No. DA-484/2017 includes the following:

- Demolition of existing structures.
- Construction of four (4) x eight (8) storey shop top housing development containing 19 ground floor retail tenancies and one (1) supermarket with a total of 150 residential apartments located above.
- Construction of four (4) levels of basement containing 123 residential parking spaces, 30 visitor parking spaces, 1 car wash bay, 98 commercial car parking spaces, 32 motorcycle parking spaces and 72 bicycle parking spaces.
- Rooftop communal open space area.
- A central public plaza providing public art, community access and pedestrian connections
- New vehicular access from Lakemba Street.
- Construction and dedication to Council by Voluntary Planning Agreement (VPA) of an 8.55m wide laneway on the site from Lakemba Street to the rear boundary of the property.
- Construction and dedication of a footpath along Lakemba Street by VPA, which will support the widening of Lakemba Street for an additional traffic lane.
- Landscaping.
- The proposal involves a variation to the building height standard in CLEP 2012. The Applicant has provided a Clause 4.6 Variation Request in this regard.

The application has been assessed against the relevant provisions of Water Management Act 2000, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy 65 Design Quality of Residential Apartment Development (SEPP 65), State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX), CLEP 2012 and CDCP 2012.

The key issues to be considered by the Sydney South Planning Panel (Panel) are:

- Building Height non-compliance, a variation at its highest of 2.16metres (8%).
- The Clause 4.6 lodged with the application has failed to adequately address Clause 4.6(4)(a) of the CLEP 2012 in that the Clause 4.6 submission has not satisfied why compliance with the maximum building height development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravention of the development standard.
- The design is inconsistent with a number of Design Quality Principles outlined within SEPP 65.
- The design seeks variation to key requirements contained in the Apartment Design Guide relating to solar access, natural ventilation and general apartment design.
- The ground floor retail tenancies do not meet the minimum depth requirements outlined within Part D1 of CDCP 2012.
- Insufficient information has been submitted to satisfy the relevant requirements relating to stormwater, traffic, waste and infrastructure as raised by Council's internal departments.

The application was advertised four times throughout the duration of the development assessment process for a period of 28 days consistent with the Canterbury Bankstown Community Participation Plan. The advertising dates are provided below:

- Between 17 January 2018 and 15 February 2018. No submissions were received during this period.
- Between 29 January 2019 - 27 February 2019. No submissions were received during this period.
- Between 1 July 2020 - 28 July 2020. Two submissions were received during this period. The matters raised in the submissions are discussed in detail further within the assessment report.
- Between 14 October 2020 – 10 November 2020. No submissions were received during this period.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended the Sydney South Planning Panel refuse Development Application No. DA-484/2017 for the demolition of existing structures, removal of trees and construction of four (4) x eight (8) storey shop top developments with 150 residential apartments, basement parking, laneway dedication and associated landscaping at 280-300 Lakemba Street and 64-70 King Georges Road, Wiley Park being the subject lots legally described as Lot A, DP962951, Lot A, DP402053, Lot B, DP402053, Lot 1, DP 501587, Lot 2, DP 501587, Lot 3, DP 501587, Lot 2, DP6970, Lot 2, DP 206965, Lot 1, DP 124635, Lot 1, DP124613 and Lot 1, DP 124636 pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979.

BACKGROUND

The subject Development Application (DA) was submitted on 8 December 2017. The original design sought consent for the *demolition of existing structures, removal of 12 trees and the construction of two blocks of nine (9) storey shop top housing development containing 210 residential apartments, including ground level plaza, three (3) levels of basement car parking and ground floor retail.*

On 20 June 2018, a request for additional information letter was issued by Council. The following matters were raised in the letter:

- Non-compliance with maximum building height control.
- Non-compliances with Apartment Design Guide (ADG) requirements relating to communal open space, building separation, parking, solar access, floor to ceiling heights, size of bedrooms.
- Non-compliances with relevant provisions contained in CDCP 2012 including, communal open space, orientation of the development, management of rooftop, integration of services, requirement for trolley bays, acoustic and setbacks.
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Drawing quality and clarity.
- Comments received from Council's Urban Design, Development Engineering, Landscape Architect and Waste Departments.
- Comments received from NSW Roads and Maritime Services (RMS) (now known as Transport for NSW).

The application was briefed to the Panel on 18 July 2018. The following key issues were discussed at the Panel briefing:

- Layout and variety of retail shops, small, medium and larger to enable greater flexibility.
- Hours of operation and CPTED of the retail plaza.
- Inadequate parking.
- Non-compliance with maximum building height and setback provisions.
- Non-compliance with the ADG on a number of counts including building separation, solar access, ceiling heights and room sizes, inadequate visual and acoustic privacy, utility rooms, communal open space and landscaping.
- Impacts on the solar access and amenity of adjoining properties.
- Incomplete or inconsistent documentation notably, materials and finishes, BASIX certificate.
- Traffic impacts on Lakemba Street due to car parking ingress/egress.
- No provision for rear access to neighbouring sites on King Georges Road.
- RMS requirement for accommodation of slip lane on Lakemba Street.
- Need to address other detailed issues raised by Council in correspondence 20/6/2018.

A further letter was issued to the Applicant on 2 August 2018 outlining the matters raised by the Panel and reiterated the concerns raised in Council's letter dated 20 June 2018. Given the number of key issues raised, the Applicant was provided the opportunity to withdraw the application or otherwise submit information to address the matters raised by Council in the letters dated 20 June and 2 August 2018 by 30 August 2018.

On 8 August 2018, a meeting was held with the Applicant to run through the matters raised in Council's letter.

On 27 August 2018, the Applicant sought an extension to provide the information requested until 31 October 2018 on the basis that all matters outlined within Council's letters would be addressed (including compliance with the 27m building height control).

Despite the above extension being provided, the information requested was received on 21 January 2019 (approximately 5 months after the original 30 August 2018 deadline).

On 15 April 2019 a further letter was issued by Council to the Applicant. The letter raised concern regarding the management of the application by the Applicant as the information submitted was provided without obtaining then RMS (now known as Transport for NSW) in principle support, as per previously advised. In addition, the information submitted had not addressed all the concerns previously raised despite the Applicant advising this would be addressed within previous discussions. Given this and the extensive time already provided to the Applicant to address concerns raised, Council provided the opportunity for the Applicant to withdraw the application by 6 May 2019. The letter advised that should the Applicant not wish to withdraw, the application will be finalised in its current form.

On 15 April 2019, the Applicant called Council to advise they would not be withdrawing the application and requested a meeting to go through the outstanding issues. A meeting was held on 16 May 2019. Matters relating to the building height and laneway/slip lane dedication were discussed.

Various amended plans to address the matters raised in the meeting held on 16 May 2019 were received between August and September 2019. The amended application sought consent for:

Demolition of existing structures, removal of trees and construction of two x eight (8) storey shop top developments with 182 residential apartments. The amended proposal also includes a ground level plaza, retail premises (including a supermarket), new lane works along the rear, third slip lane on Lakemba Street and four levels of basement car parking.

On 30 September 2019, a further request for information letter was issued. The letter raised concerns relating to traffic, development engineering, urban design, landscaping, waste, wind impacts, compliance with ADG, architectural roof feature pursuant to CLEP 2012 as well as variations to controls outlined within CDCP 2012. The Applicant was provided until 28 November 2019 to submit information to address the matters outlined within this letter.

A meeting was held with the Applicant on 7 November 2019 to run through the matters raised in Council's letter dated 30 September 2019.

Revised building massing plans were submitted to Council by the Applicant on 31 January 2020. The Applicant sought Council's preliminary comments on the massing plans prior to the finalisation of the design to address the matters raised in Council's letter dated 30 September 2019. A response was provided to the Applicant via email on 24 March 2020. Within the response, Council requested the Applicant to advise the likely timeframe for receipt of the information requested. The Applicant sought an extension to provide the information by 22 May 2020. The extension was granted.

On 14 May 2020, the Applicant sought a further extension until 5 June 2020 to provide the information requested. The extension was granted.

On 4 June 2020, the Applicant sought a further extension until 10 June 2020 to provide the information requested. The extension was granted.

The additional information was submitted on 11 June 2020 (some 6 months since the original 28 November 2019 deadline). The amended design sought consent for the following:

Demolition of existing structures, removal of trees and construction of two x eight (8) storey shop top developments with 170 residential apartments. The amended proposal includes a ground level plaza, retail premises (including a supermarket), new lane works along the rear, third slip lane on Lakemba Street and three levels of basement car parking.

On 13 August 2020, Council issued a further additional information request letter. The letter raised concerns regarding compliance with relevant requirements in the ADG and SEPP 65, CLEP 2012 (including building height), CDCP 2012, Voluntary Planning Agreement as well as matters raised by Council's Infrastructure, Traffic, Waste, Development Engineer and Building departments. The information to address the concerns was to be submitted by 3 September 2020.

A meeting was held on 25 August 2020 to run through the matters outlined within Council's letter. The Applicant was advised at this meeting that the DA would be referred to the Panel for determination in December 2020 and therefore there was a tight timeframe to submit the information requested to ensure the December meeting timeline was met.

On 26 August 2020, the Applicant requested an extension until 30 September 2020 to provide the information requested. The extension was granted until 23 September 2020 as it was advised this would be the deadline to ensure the DA could be re-notified and the report for the December Panel meeting date could be finalised within the required timeframes.

On 23 September 2020, the Applicant requested a further extension until 7 October 2020. Council granted an extension until 2 October 2020. Council reiterated that no further extension could be provided to ensure the DA meets the Panel reporting deadlines.

Additional information was received on 2 October 2020. The amended (current) design seeks development consent for the following:

Demolition of existing structures, removal of trees and construction of four x eight (8) storey shop top developments with 150 residential apartments. The amended proposal includes a ground level plaza, retail premises (including a supermarket), new lane works along the rear, third slip lane on Lakemba Street and three levels of basement car parking.

Council wrote to the Applicant on 12 October 2020 outlining matters raised by Council's Infrastructure expert. It was noted that not all referrals had been received to date, however in the interest to try and ensure outstanding matters could be addressed (as long as the information was provided within the timeframes provided). The applicant was provided until 21 October 2020 to submit the information. The information requested was provided on 29 October 2020.

The assessment below is based on the information received on 2 and 29 October 2020.

As it is evident above, the Applicant was provided ample opportunities to amend the design to address concerns raised as well as ample extensions to provide such information. As outlined within the report below, the current design still seeks substantial variations to key development controls and insufficient information has been provided to address other matters raised by internal departments. For the reasons outlined within the report, the application cannot be supported.

SITE & LOCALITY DESCRIPTION

The site is located at 280-300 Lakemba Street and 64-70 King Georges Road, Wiley Park and is legally described as follows:

- Lot A, DP962951.
- Lot A, DP402053.
- Lot B, DP402053.
- Lot 1, DP 501587.
- Lot 2, DP 501587.
- Lot 3, DP 501587.

- Lot 2, DP6970.
- Lot 2, DP 206965.
- Lot 1, DP 124635.
- Lot 1, DP124613.
- Lot 1, DP 124636.

The lots, as development site, have a primary frontage to King Georges Road of 67.285m and a secondary frontage to Lakemba Street of 64.605m with a splay at the corner measuring 3.44m. The site has a total site area of 5,851m² (by title dimensions) and slopes approximately 3m from the south to north across the site. The site currently consists of single and two storey commercial tenancies as well as detached dwellings.

The site is zoned B2 Local Centre and is bound by Lakemba Street to the north. An existing 6 storey shop top housing development is located opposite the site on the northern side of Lakemba Street. R4 zoned land comprising of two-three storey walk-up residential flat buildings directly adjoin the site to the east. B2 zoned land directly adjoins the site to the south comprising a mix of commercial, mixed use and residential development. King Georges Road directly adjoins the site to the west. B2 zoned land is located on the opposite side of King Georges Road consisting of single-two storey commercial premises as well as the Wiley Park Railway Station.



Figure 1: Aerial of subject site in yellow.

Source: NearMaps 2020



Figure 2: Zoning context of site, site outlined in yellow
Source: NSW Planning Portal 2020



Figure 3: The subject site, view south-west along Lakemba Street



Figure 4: The subject site, view south-east at the corner of Lakemba Street and King Georges Road

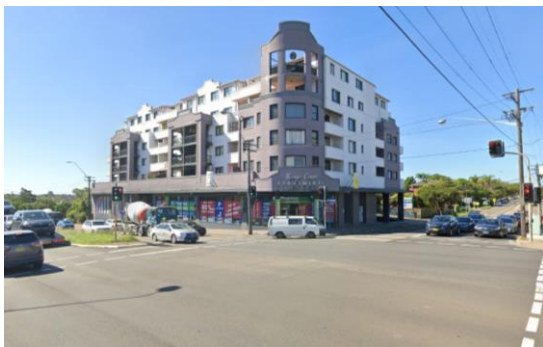


Figure 5: Existing development to the north of the subject site, view north-east at the corner of Lakemba Street and King Georges Road



Figure 6: Existing development to the east of the subject site, view south-east along Lakemba Street



Figure 7: Existing development to the south of the subject site, view east along King Georges road

PROPOSED DEVELOPMENT

The Development Application (DA) seeks development consent for the demolition of existing structures, removal of 18 trees and the construction of four (4) shop top housing developments over part three (3), part four (4) levels of basement. The basement incorporates a supermarket, residential, commercial and visitor parking, storage rooms and plant and services rooms.

The following is incorporated into the four (4) x building design:

- Basement parking containing 123 residential parking spaces, 30 visitor parking spaces, 1 car wash bay, 98 commercial car parking spaces, 32 motorcycle parking spaces and 72 bicycle parking spaces.
- 20 retail tenancies, including a supermarket located in the basement and ground floor.
- 150 residential apartments over 7 levels. The apartment configuration is broken down as follows:
 - o 14 x studio apartments.
 - o 45 x one-bedroom apartments.
 - o 85 x two-bedroom apartments.
 - o 6 x three-bedroom apartments.
- Rooftop communal open space area.
- A central public plaza providing public art, community access and pedestrian connections
- Combined residential and commercial loading docks.
- Waste facilities.
- New vehicular access from Lakemba Street.
- Construction and dedication to Council by VPA of an 8.55m wide laneway on the site from Lakemba Street to the rear boundary of the property.
- Construction and dedication of a footpath along Lakemba Street by VPA, which will support the widening of Lakemba Street for an additional traffic lane.
- Associated landscaping.

Statutory Considerations

When determining this application, the relevant matters listed in Section 4.15C of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- Water Management Act 2000
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)

- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX) (BASIX)
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

Water Management Act 2000

A Geotechnical Investigation Report prepared by JK Geotechnics was submitted with the application. The report noted that groundwater seepage was encountered in the boreholes during auger drilling. The report concluded that it did not consider that there is a likelihood of the construction of the basement causing any significant interference to the regional groundwater flow due to the relatively impermeable nature of the subsurface profile as well as given proper drainage systems are to be designed and installed in the basement by a qualified hydraulic/drainage engineer.

Notwithstanding the above, the application was referred to NSW Natural Resources Access Regulator (NRAR) pursuant to Clause 91 of the Water Management Act 2000. Based on written correspondence received from NRAR on 30 June 2020, the proposed works are exempt from the need to obtain a controlled activity approval and no further comment was required.

Considering the above, the application satisfies the requirements of the Water Management Act 2000.

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land will be remediated before the land is used for that purpose.

The Applicant submitted a Stage 1 and Stage 2 Environmental Site Assessment, both prepared by Environmental Investigation Services. The Stage 1 report recommended that a Stage 2 assessment be undertaken and a Hazardous Material's Assessment (Hazmat) report be undertaken for the existing buildings prior to the commencement of demolition on the site.

The findings of the Stage 2 report conclude that the site is considered suitable for the proposed development subject to the following conditions:

- Undertake some additional analysis to assess whether the fill in the south section can remain on-site;
- If the concentrations remain elevated after the additional analysis the fill should be removed as part of the basement excavation; and
- Undertake a Hazardous Materials Assessment (Hazmat) for the existing building prior to the commencement of demolition work.

Council's Environmental Health Officer has reviewed the application, including the abovementioned reports and supports the application subject to conditions of consent, including conditioning the recommendations of the Stage 2 report.

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 (the Regs) requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved. The documentation submitted comprises the Design Verification Statement. The statement comprises an assessment against the SEPP 65 principals and ADG guidelines, however it doesn't comprise a statement that the qualified designer verifies that he/she designed, or directed the design, of the development pursuant to Clause 50(1AB)(a) of the Regs. This was raised with the Applicant by council, however was not provided.

The principles outlined within Schedule 1 of SEPP 65 are discussed as follows:

Principle 1: Context and Neighbourhood Character

Council is generally supportive of the proposal given it will assist in revitalising the Wiley Park centre. However, the current design seeks departure from a number of key building design controls which is considered to represent a development is in not in keeping with the existing or future desired character of the area.

Principle 2: Built Form and Scale

The proposal seeks a variation to the maximum building height control permitted for the site pursuant to Canterbury Local Environmental Plan 2012. For the reasons outlined later within this report, the Clause 4.6 variation statement submitted is not supported.

In addition to the height variation, the proposed design in its current form seeks a substantial variation to the solar access and natural ventilation requirements contained within the ADG.

As the proposal currently stands, the design is not considered to be appropriate in terms of bulk and scale and could be improved.

Principle 3: Density

Given the number of variations proposed to key development controls, the proposed density of the development is considered unsatisfactory and is not a reasonable response to the desired future context and built form.

Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into this proposal.

Principle 5: Landscape

The proposal incorporates landscaping at ground level as well as on the rooftop of each building as part of the communal open space area. The proposed deep soil area complies with the minimum requirements specified within the ADG.

Further, all the proposed apartments have access to private open space, in the form of balconies. The proposal satisfies the relevant landscaping requirements of the ADG and CDCP 2012.

Principle 6: Amenity

The proposed design does not satisfy the key design controls relating to solar access and natural ventilation and to a lesser extent other amenity controls relating to apartment depth and minimum bedroom size. On this basis, the design in its current form, does not provide for adequate amenity for future residents of the development.

Principle 7: Safety

The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project. The proposal provides increased activation and passive surveillance of the surrounding streets and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates various dwelling sizes and includes adaptable units promoting diversity, affordability and access to housing choice.

Principle 9: Aesthetics

The articulation of the external façades through incorporating varying setbacks and materials and finishes lessens any perception of bulk, whilst maintaining internal and external amenity. These elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

Apartment Design Guide

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 28 (2) (c) of SEPP 65.

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
3C Public Domain Interface	- Avoid long, high blank walls and fences - Direct access from the street to ground floor apartments and windows overlooking the street improve safety and social interaction; - Key components to consider when designing the interface include entries, private terraces or balconies, fence and walls, changes in level, services location and planting. - Safety considerations (real or perceived) and consideration of social interaction opportunities when viewed from the public domain. - Terraces, balconies and courtyard apartments to have direct street level entry where possible; - Changes in levels between ground floor and terraces to balance passive surveillance and privacy; - Provide seating at building entries, letter boxes and private courtyards adjacent the street. - Multiple building entrances to be clearly defined through architectural detailing, changes in materials, plant species and colours; - Concealment opportunities minimised.	Blank walls are avoided, as openings are provided along each elevation which facilitates improved amenity for future occupants. The building has been designed to incorporate private open space/habitable rooms facing the internal communal areas as well as the adjoining public domains to facilitate passive surveillance. Direct access to the retail tenancies from the adjoining street frontage is provided. Where there is a change in level between the street frontage and tenancy, stairs and platform lift or a method that complies with the BCA and DDA premises standards is provided to facilitate access for all persons. Letterboxes provided at the residential entrance. Entrances to the residential component are demarcated through incorporating a different awning to that provided for the retail component. Appropriate signage etc could also be incorporated via condition of consent, should the application be supported.	Yes

Section	Design Criteria	Proposed	Complies
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. (Total site area is 5,851m², requiring a minimum 1,463m²) Min 6m dimension.	Communal Open space for the residents is provided on the rooftops of the buildings and Level 7 of Building 2. The areas incorporate BBQ areas, seating, play areas and a range of facilities for use. Such areas equate to 743.8m² or 12.7% of the site area. However, the design does also incorporate a plaza on the ground floor that is available to residents as well as the general public. The Plaza measures 957.8m² and contains landscaping, seating and art. Incorporating this area, the site includes 1,701.6m² or 29%. The design meets the objectives of Part 3D and is considered appropriate in this instance. As outlined within the ADG, communal open space can be open to the public.	Yes

Section	Design Criteria	Proposed	Complies
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	50% of the required communal open space area equates to 731.4m². The total area of the communal open spaces on the rooftop of the building as well as on Level 7 of building 2 equates to 743.8m². At least 50% of these communal open spaces receive more than 2 hours solar access between 9am-3pm on 21 June. Furthermore, more than 100m² of the ground floor plaza receives solar access between 12-2pm on 21 June. Therefore, between the rooftop communal open space, the area on level 7 of building 2 and ground floor plaza, at least 50% of the required communal open space area receives at least 2 hours solar access between 9am-3pm on 21 June.	Yes

Section	Design Criteria			Proposed	Complies	
3E Deep Zones	Soil	Deep soil zones are to meet the following minimum dimensions:			Deep soil is provided along the southern boundary as well as within the plaza. Three of the four landscape area within the plaza can be included in the deep soil area requirements given the basement design below and the width of these areas is 6m. The above areas equate to 442m ² or 7.6%.	Yes
		Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)		
		Less than 650m ²	-	7%		
		650m ² - 1,500m ²	3m			
		Greater than 1,500m ²	6m			
		Greater than 1,500m ² with significant existing tree cover	6m			

3F Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:			For the purposes of the assessment below, reference to the floors is as shown on architectural plans.	
	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	<u>North (measured to half way across Lakemba Street)</u>	Yes
	Up to 12m (4 storeys)	6m	3m	- Level 1: 13m	
	Up to 25m (5-8 storeys)	9m	4.5m	- Level 2: 13m	
	Over 25m (9+ storeys)	12m	6m	- Level 3: 13m	
	Note: An increased 3m building separation is required given the land to the east is a different zone (R4 High Density Residential) that permits lower density residential.			- Level 4: 15m	
				- Level 5: 15m	
				- Level 6: 15m	
				- Level 7: 15m	
				- Rooftop: 16.5m	
				<u>East</u>	Yes
				- Level 1: 9m	
				- Level 2: 9m	
				- Level 3: 9m	
				- Level 4: 12m	
				- Level 5: 12m	
				- Level 6: 13.7m	
				- Level 7: 18.5m	
				- Rooftop: 18.7m	
				<u>South</u>	
				- Level 1: 9m	Yes
				- Level 2: 9m	
				- Level 3: 9m	
				- Level 4: 9m	
				- Level 5: 9m	
				- Level 6: 9m	
				- Level 7: 9m	
				- Rooftop: 10.2m	
				<u>Within Site</u>	
				The distances between Building 1 and Building 2 comply with the minimum building separation requirements.	No – refer to comment [1] below
				The distances between Building 1 A and B as well as Building 2 A and B do not comply with the minimum distances as a 7m building separation is provided between the buildings. This does not comply with the minimum 12m	

Section	Design Criteria	Proposed	Complies
		requirement or up to 4 storeys and 18m for 5-8 storeys.	
3J Bicycle and Car Parking	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP 2012 controls apply. The site is within 800m walking distance of Wiley Park Railway Station. Based on Council's calculations, the residential parking generation rate outlined within RMS Guide is lesser than CDCP 2012 therefore applies. The proposal generates the following residential parking requirements: - 1bed = 0.6spaces per dwelling (35.4 spaces required). - 2 bed = 0.9 spaces per dwelling (76.5 spaces required) - 3 bed = 1.4 spaces per dwelling (8.4 spaces required). - Visitor = 1 space for 5 dwellings (30 spaces required). TOTAL = 150.3 (151) spaces required	The basement design incorporates the following parking for residential: - 123 residential spaces (including 15 accessible spaces) - 30 visitor spaces (including 1 accessible space) - 1 car wash bay. TOTAL = 153 residential parking spaces plus 1 x car wash bay An assessment of the retail/supermarket parking is undertaken within the CDCP 2012 section of this report.	Yes
	The car parking needs for a development must be provided off street.	Parking is provided within basement.	Yes

3G Pedestrian Access and Entries	Multiples entries should be provided to activate the street edge.	Multiple entries are provided along the street frontages to the retail and residential components (where relevant) to activate King Georges Road and Lakemba Street.	Yes
	Entry locations relate to the street and subdivision pattern / existing pedestrian network.	Entry locations relate to existing pedestrian network.	Yes
	Building entries should be clearly distinguishable from private entries.	Residential entry point is separated from commercial and is demarcated using a different awning. Appropriate signage etc could be conditioned should the application be supported.	Yes – via condition of consent should the application be supported.
	Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.	Residential lift visible from public domain with exception of the lifts within Building 1 A and B. Access to the lifts are restricted to ensure safety is provided. A mirror could also be incorporated into the design to facilitate viewing of the lift from the street, should the application be supported.	Yes – via condition of consent should the application be supported.
	Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.	The buildings have been designed to ensure the entrance to the tenancy / residential entry points aligns, where possible, with the pathway it adjoins. In the instance where this is not possible ramps and steps have been integrated within the design to allow easy access.	Yes

Section	Design Criteria	Proposed	Complies
	Provide way finding maps for large developments. Electronic access and audio/video intercoms required.	Can be conditioned.	Yes – via condition of consent should the application be supported.
Part 4 Designing the Building			
4A Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	A total of 56 apartments (37%) receive at least 2 hours solar access to living rooms and private open space between 9am-3pm on 21 June.	No
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	It is noted that the floor plans do incorporate some voids along the eastern elevation on Level 04 on Building 01. It is assumed these are located above the private open space areas on the level below. However, they are not incorporated on the view from sun diagrams and therefore it cannot be determined whether they provide additional solar access to the private open space and living rooms below. A total of 36 apartments (24%) receive no direct sunlight).	

Section	Design Criteria	Proposed	Complies
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	70 apartments (47%) are naturally cross ventilated. The Applicant's figures have included the 6 apartments that rely on operable skylights for cross ventilation as well as 12 apartments that comprise high louvres and solid fin (required for acoustic measures) which results in 92 apartments (61.3%). However, it is noted that the shade structure on the roof is located above the operable skylights. Although there are operable skylights incorporated into the shade structure, there is concern that adequate ventilation will not be afforded to the apartments based on this design. No evidence has been provided to support this design. No information has been provided to demonstrate how the high louvres with solid fin design will facilitate natural ventilation. They are only discussed from an acoustic mitigation measure perspective. There is concern that the size of the louvres don't meet the input/output size required to facilitate natural ventilation as discussed within the ADG.	No

Section	Design Criteria	Proposed	Complies										
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All cross through apartments included in the above calculations are less than 18m when measured glass line to glass line.	Yes										
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed-Use Buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Mixed use</td><td>3.3m for ground floor</td></tr></table> These minimums do not preclude higher ceilings if desired.	Minimum Ceiling Height for Apartment and Mixed-Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	Mixed use	3.3m for ground floor	Commercial: Floor to ceiling varies between 3.5-5m. Residential: Floor to floor heights are minimum 3.1m to enable 2.7m floor to ceiling heights.	Yes Yes		
Minimum Ceiling Height for Apartment and Mixed-Use Buildings													
Habitable rooms	2.7m												
Non-habitable	2.4m												
Mixed use	3.3m for ground floor												
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas: <table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	All apartments comply with the minimum internal area requirements. NB: some studio apartments have the potential to be converted to one bedroom – these will be conditioned as studio apartments to ensure compliance. Noted.	Yes – via condition of consent should the application be supported. Yes – via condition of consent should the application be supported.
Apartment Type	Minimum Internal Area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												

Section	Design Criteria	Proposed	Complies
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Apartments U1.02 and U2.02 within Building B02-B comprise kitchens located greater than 8m from a window (approximately 9.5m). All other apartments with open plan layouts have a maximum depth of less than 8m.	No
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	All master bedrooms have a minimum area of 10m² except for apartments 7.03(B01-A) and 7.03(B01-B) which comprise 8.7sqm. All other bedrooms have a minimum area of 9m² (excluding wardrobe).	No
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m (excluding wardrobe).	Yes
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	The combined living/dining rooms within each apartment comply with the minimum width requirements.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	All cross through apartments are at least 4m internally.	Yes

Section	Design Criteria	Proposed	Complies															
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	All apartments comply with the minimum balcony area and depth requirements.	Yes															
	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>			Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m
	Dwelling type			Minimum Area	Minimum Depth													
	Studio apartments			4m ²	-													
	1 bedroom apartments			8m ²	2m													
	2 bedroom apartments	10m ²	2m															
	3+ bedroom apartments	12m ²	2.4m															
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.		Apartments U3.01 and U3.05 within Building B01-B and apartments U3.01 and U3.05 within Building B01-A have a podium greater than 15qm in size and 3m in depth.	Yes															
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Maximum 7 apartments off the two circulation cores.	Yes															
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	All apartments comprise 50% of the required storage volume within the apartment. Adequate storage is provided in the basement to accommodate the remaining 50% requirements.	Yes – via condition of consent should the application be supported.															
	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>			Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³					
	Dwelling type			Storage size volume														
	Studio apartments			4m ³														
	1 bedroom apartments			6m ³														
	2 bedroom apartments	8m ³																
3+ bedroom apartments	10m ³																	
At least 50% of the required storage is to be located within the apartment.		The allocation of storage can be conditioned should the application be recommended for approval.																

Section	Design Criteria	Proposed	Complies
4H Acoustic Privacy	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses	The design primarily complies with the minimum building separation requirements outlined within the ADG. The separation between buildings A and B within both "Building 1" and "Building 2" only comprise a 7m separation. Appropriate acoustic measures are incorporated into the design for the dwellings that adjoin the 7m building separation, as recommended within the Acoustic Report submitted.	Yes – via condition of consent should the application be supported.
	Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas	Corridors are located directly above each other on each floor. Bedrooms have been grouped together where possible.	Yes
	Rooms with similar noise requirements are grouped together	Rooms with similar noise requirements are grouped together, where possible.	Yes
	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms	No bedrooms directly adjoin the driveway, building services or communal open space. The bedrooms on upper levels which face the driveway or communal areas will be appropriately designed to mitigate any noise impacts as per the recommendations of the acoustic report submitted.	Yes – via condition of consent should the application be supported.

Section	Design Criteria	Proposed	Complies
4S Mixed Use	Mixed use developments positively contribute to the public domain. Design solutions may include: • development addresses the street • active frontages are provided • avoiding blank walls at the ground level	The development has been designed to appropriately address the street, particularly at ground level, to activate the street frontage. Direct access from the relevant adjoining street front has been provided to the ground floor retail and residential uses (where appropriate). The design doesn't incorporate any large spans of blank walls at ground level.	Yes
	Residential circulation areas should be clearly defined. Design solutions may include: • residential entries are separated from commercial entries and directly accessible from the street • commercial service areas are separated from residential components • residential car parking and communal facilities are separated or secured • security at entries and safe pedestrian routes are provided • concealment opportunities are avoided	Generally, the residential and commercial uses are adequately separated. The residential use has been demarcated using a different awning compared to the rest of the frontage. Appropriate signage can be incorporated via condition of consent.	Yes – via condition of consent should the application be supported.
	Landscaped communal open space should be provided at and commercial podium or roof levels	The plaza and rooftop communal open space areas incorporate landscaping.	Yes

[1] Part 3F – Visual Privacy

Part 3F-1 of the ADG specifies minimum separation distances between windows and balconies of a development. The proposed development complies with the minimum building separation distances with the exception of separation distances within the site. The ADG outlines that separation distances between buildings on the same site should combine required building separations depending on the type of room.

As outlined in the table above, the proposed design does not comply with the minimum building separation controls in the following instances:

- The distances between Building 1 A and B as well as Building 2 A and B do not comply with the minimum distances as a 7m building separation is provided between the

buildings on all levels.

- A minimum 12m separation should be provided between habitable rooms for storeys 1-4 representing a 5m or 41.6% variation.
- A minimum 18m building separation should be provided between habitable rooms for storeys 5-8 representing an 11m or 61.1% variation.

The objective of Part 3F is:

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

It is imperative to note that overall, the proposed development complies with the objective of Part 3F as the design complies with the minimum building separation distances to adjoining properties, including the additional setback required to the eastern boundary.

The proposed variation to the abovementioned building separation distances is considered acceptable in this instance given visual privacy will be afforded to future residents of the affected apartments through the incorporation of the following:

- Frosted glass windows will be applied to affected habitable windows.
- 1.8m high frosted glass screens will be applied to the relevant elevation of affected balconies.

The above mitigation measures have been incorporated into the proposed design.

In addition to the above, the Acoustic Report prepared by Renzo Tonin and Associates considered the potential acoustic impacts on the affected residential apartments resulting from the proposed building separation variation. In summary, the report concluded that through the incorporation of building recesses, solid fin walls and acoustic plenums (as required), adequate acoustic privacy will be maintained to the affected apartments. Such recommendations have been incorporated into the design.

Considering the above, Council is supportive of the design from a visual privacy and acoustic perspective, despite the variation as it is considered the objective of the control is still met.

However, as noted earlier within the report, such design (particularly the use of solid fin walls and plenums) is considered to impact the design's compliance with the minimum natural ventilation requirements. This matter hasn't been considered by the Applicant in detail and therefore although Council is supportive of the variation in principle, Council is unable to support the design in its current form given the impact this design has on compliance with the minimum natural ventilation requirements.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007)

Ausgrid

The proposed development involves works within 5m of overhead power and requires the installation of a new substation. In accordance with Clause 45 of ISEPP, a referral to the electricity supply authority for the area was required.

Ausgrid have assessed the plans lodged in support of the application and advise that they consent to the proposed development subject to conditions relating to certain matters including the supply of electricity to the site, infrastructure installation, and managing any impacts on existing electricity network assets.

The conditions contained in Ausgrid's advice would be incorporated in the conditions of consent, should the Panel resolve to approve the proposal.

Transport for New South Wales (TfNSW)

Vehicle access

As the site has a frontage to a classified road, Clause 101 of the ISEPP is relevant and requires Council to be satisfied that vehicular access to the land is provided by a road other than the classified road where practical. The design incorporates vehicle access to/from Lakemba Street. As outlined later within this report, the design also includes a rear laneway (along the eastern boundary of the site) to facilitate effective operation of the site.

The design also incorporates a new slip lane to be constructed along Lakemba Street to facilitate vehicles turning left onto Kings Georges Road.

On this basis, the application was referred to the NSW Transport for New South Wales (TfNSW) for comment in accordance with Clause 101 of the ISEPP, approval under Section 87 of the *Roads Act 1993* and concurrence under Section 138 of the *Roads Act 1993*.

Within the correspondence received from TfNSW dated 5 November 2020, approval and concurrence was granted subject to conditions of consent being included in the development consent should the application be supported.

Noise and vibration

According to the TfNSW traffic volume viewer, King Georges Road is identified as a road with an annual average daily traffic volume of more than 40,000 vehicles. Subsequently, Clause 102 of ISEPP is relevant and requires Council to consider whether the development is likely to be adversely affected by road noise/vibration and also requires Council be satisfied that appropriate measures will be taken to ensure that certain noise criteria in decibels, is not exceeded.

An acoustic report prepared by Renzo Tonin & Associates dated 1 October 2020, was prepared in support of the application. The report includes recommendations to achieve the acoustic levels outlined in Clause 102 of ISEPP.

The report relies on the following elements to achieve acceptable acoustic privacy, including:

- Glazing treatment to affected building facades.
- Incorporate full perimeter acoustic seals to all operable glass windows and doors.
- The perimeter of all window and door frames are to be sealed airtight in the external facade
- Ensure facade and roof sound insulation meets minimum ratings.

The measures proposed are consistent with the Department of Planning, Industry and Environment's 'Development near Rail Corridors and Busy Roads – Interim Guideline' relating to development near busy roads as well as satisfying the requirements of ISEPP and relevant Australian Standards.

Council's Environmental Health Officer has reviewed the report and raises no objection subject to conditions of consent.

The recommendations of the report as well as the recommended conditions from Council's Environmental Health Officer could be included in the conditions of consent should the application be recommended for approval.

Traffic generation

According to clause 104 and Schedule 3 of ISEPP the proposal qualifies as a 'traffic generating development' as it comprises more than 75 residential dwellings with a vehicular access point proposed within 90m of connection to a classified road (King Georges Road). On this basis, the application was referred to TfNSW. As outlined above, within TfNSW's most recent advice, concurrence for the proposal was granted, subject to conditions of consent should the application be supported.

State Environmental Planning Policy 2004 – (Building Sustainability Index: BASIX)

In accordance with BASIX SEPP, a BASIX Certificate accompanies this application (Certificate No. 858702M_07 dated 29 September 2020). The Certificate makes several energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements could be incorporated into conditions of consent, should the application be approved.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposed development seeks approval for the removal of 18 trees. Council's Tree Management Team have reviewed the application and raised no objection to the removal of the trees, subject to conditions.

Canterbury Local Environmental Plan 2012 (CLEP 2012)

This site is zoned B2 Local Centre under CLEP 2012. The controls applicable to this application are discussed below.

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012:

Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the B2 Local Centre Zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres*

The proposed development meets the objectives of the B2 zone as it provides ground floor retail premises that can be adapted for a range of permissible uses to serve the needs of people who live in, work in and visit the local area. The retail uses encourages employment opportunities on a site that is located within proximity to rail and bus transport modes.

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	B2 Local Centre	The proposal is defined as shop top housing which is permitted in the zone.	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition of existing structures proposed.	Yes
Part 4 Principal Development Standards			
4.3 Height of Buildings	27m	Building B01-A: Max 28.235m (Awning RL 70.35 – GL 42.115). Building B01-B: Max 27.95m (Awning RL 68.8 – GL 40.85) Building B02-A: Max 28.95m (Awning RL 70.35 – GL 41.4) Building B02-B: Max 29.16 (Awning RL 68.8 – GL 39.64) Max Height Variation = 2.16m (8% variation) In addition to the above, the RLs of the structures/materials located over the service equipment on the rooftop of the 4 buildings are not shown on the rooftop plan. Based on the elevations, it could be assumed they are no higher than the balustrade, however this could not be confirmed and therefore Council cannot confirm whether these elements are located within the height limit.	No – see comment [1] below
4.4 Floor Space Ratio	N/A	N/A	N/A
Part 5 Miscellaneous Provisions			

Provision/ Standard	Requirement	Proposal	Complies
5.10 Heritage Conservation	(5) Heritage assessment The consent authority may, before granting consent to any development— (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned	The site is not identified as a heritage item pursuant to CLEP 2012. The subject site is within proximity to Local Heritage Item I159 “Inter war railway station building” (Wiley Park Railway Station) located at 91-93 King Georges Road, Wiley Park. The proposal is not considered to adversely impact on the heritage significance of this item and therefore a heritage management document is not required in this instance.	Yes
Part 6 Local Provisions			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	The site is not impacted by Acid Sulfate Soils.	N/A
6.2 Earthworks	Before granting consent to development including earthworks, the following must be considered: (a) drainage patterns and soil stability (b) the likely future use or redevelopment of the land, (c) quality of the fill or the soil to be excavated, or both, (d) effect of development on existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	A Geotechnical Report prepared by JK Geotechnics was prepared and submitted as part of the DA. The recommendations of the report including, but not limited to, the preparation of dilapidation reports, footing systems, demolition, excavation and retention systems, vibration monitoring, basement slab and pavement design could be enforced via condition of consent. In addition to the above, the recommendations of the Stage 2 Environmental Site Assessment, prepared by Environmental Investigation Services could be enforced via condition of consent. Based on the above, the requirements of Clause 6.2 are satisfied.	Yes – via condition of consent should the application be approved

Provision/ Standard	Requirement	Proposal	Complies
6.3 Flood Planning	This clause applies to land at or below the flood planning level. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	The site is not located within a flood planning zone.	N/A
6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	The application was considered by Council's Development Engineer who raised concern regarding the amended design. Concern was raised in regard to the inconsistency of OSD details in the plans, design of the OSD, rainwater tank, proposed connection to Council drainage system, and design of stormwater pipe and supporting infrastructure. These matters are discussed later within this report.	No

Provision/ Standard	Requirement	Proposal	Complies
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity (substation); - the disposal and – management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	Council's Development Engineer, Traffic Team and Infrastructure Expert have raised concern regarding the proposed stormwater design and vehicular access. Their concerns are discussed in further detail later within this report. The design includes suitable arrangement for the supply of water and electricity (through incorporating a substation). In terms sewage, the sewer line (Sydney Water asset) runs through the middle of the site. The Application was referred to Sydney Water on this basis pursuant to s78 of Sydney Water Act 1994 who raised no objection, subject to conditions of consent. Such conditions could be incorporated into the consent, should the application be recommended for approval.	No

As demonstrated above, the proposal is generally consistent with the objectives of CLEP however it does not comply with the standards outlined in Clauses 4.3, 6.4 and 6.6 of CLEP 2012. Further discussion is provided below with respect to the contravention to the height of buildings development standard contained in Clause 4.3, and the associated Clause 4.6 variation submission to seek flexibility in the application of this development standard.

The proposed variation

The proposal complies with the development standards contained in CLEP 2012, with the exception of Clause 4.3 – Height of Buildings. The non-compliance building height primarily derives from the awning structure located on the rooftop of each building which also incorporates the lift and stairwell access to the rooftop communal open space area. In addition, a small section of the rooftop balustrades associated with Buildings 01-B, 02-A and 02-B breach the building height.

Pursuant to Clause 4.6 of CLEP 2012, the applicant has made a submission seeking a variation to the provisions contained in Clause 4.3 of CLEP 2012. The Clause 4.6 submission details the extent of the variation as follows:

- 27m – Building Height maximum
- 29.65m – Maximum Building Height proposed
- 2.65m – 9.8% degree of contravention

Based on Council's assessment, the degree of variation between Council and the Applicant is not agreed upon. Council's assessment included overlaying the roof design over the survey plan and calculating the maximum height by utilising the existing ground level points provided on the survey and the RLs of the highest point on the architectural plans. In the instance ground level markings were not available on the survey, the existing ground level was

determined by calculating the median of the two nearest survey markings. In this regard, Council's assessment determined the extent of the variation as follows:

- 29.16m – Maximum Building Height proposed
- 2.16m – 8% degree of contravention

An assessment of the development against Clauses 4.6(2), (3) and (4) of CLEP 2012, including extracts from the applicant's submission, is provided below:

1. The objectives of this clause are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment: The development standard to be varied is Clause 4.3, Height of Building, which is not expressly excluded from the operation of Clause 4.6.

3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,***

The Applicant's written request states that compliance with the building height standard is unnecessary or unreasonable as follows:

- *The additional height comprises a variation of less than one storey and does not contribute material bulk and scale to the development.*
- *The non-compliance predominantly relates to the rooftop awning and lift overrun which provides access to the rooftop communal space.*
- *The design has been amended to reduce any of the perceived bulk previously identified by Council from the lift overrun adjacent to the roof parapet.*
- *The proposal is consistent with the objectives of the development standards and objectives of the B2 Local Centre zone.*
- *The proposal is a high-quality shop top housing development which is of a scale entirely compatible with the strategic direction of the Wiley Park Station Precinct.*
- *The burden placed on the community (by requiring strict compliance with the Height of Buildings standard) would be disproportionate to the (non-existent or inconsequential) adverse consequences attributable to the proposed non-compliant development.*
- *The site is not subject to a maximum FSR under CLEP 2012. The area of variation to the height of buildings standard results from the redistribution floor space to achieve the most favourable outcome for the site, including a central public plaza*

protected from the main roads. If strict numerical compliance were required, the building would need to redistribute GFA to lower levels. This would compromise the building separation provided to surrounding lower density areas. This would also compromise the effectiveness of the central public plaza.

- The proposed development provides an activated ground floor with a range of retail and commercial tenancies and a new public plaza. The proposed plaza, while providing a high level of street activation with the B2 Local Centre zone, does not provide communal open space specifically for residents of the site. To ensure that there is communal open space specifically for residents, and which is maximised to ensure recreational amenity for those residents, the roof top open space has been proposed. The variation in height relates predominantly to the rooftop awning and lift overrun for the rooftop communal open space, providing access and weather protection for those residents. While it would be possible to provide communal roof top space within the height control, this would further reduce the amenity of the space and the overall area available to residents. Further, if the rooftop space was reduced, communal open space would need to be provided at the ground level which would reduce the area available for public use.*
- Given that the elements exceeding the height limit do not cause amenity impacts to surrounding neighbours, nor do they contribute to the building's overall bulk and scale, it would be unreasonable to require strict compliance with the development standard. Strict compliance would unnecessarily diminish the quality of the rooftop space and would require the reduction in publicly accessible plaza space at the ground level in order to provide an adequate area of communal open space on the site.*
- In summary, the proposed non-compliance is inconsequential and will not result in any adverse impacts on residents or neighbouring properties.*

Comment:

The justification provided by the Applicant is broad and primarily relates to the development as a whole, rather than demonstrating that the proposed height breach outweighs the countervailing objective of the control.

The justification lacks discussion around the site constraints (such as topography) and this impact on the proposed height breach as well as how the development has been designed to respond to the fall of the land whilst trying to ensure each floor is level to facilitate easy access. The justification does touch on the consideration of providing the communal open space within the height control. However, it concludes without any substantiated evidence or detailed discussion as to how this conclusion was made, that such design would *“further reduce the amenity of the space and the overall area available to residents”*.

The justification also notes that *“if the rooftop space was reduced, communal open space would need to be provided at the ground level which would reduce the area available for public use”*. Council doesn't agree with this statement. In the event the communal open space cannot be provided on the rooftop without contravening the height development control, it does not automatically result in additional area having to be provided on the ground floor. There could be scope to provide it on a lower level of the development. It is noted that this could potentially result in a reduction in the number of apartments currently proposed, however it does not appear to have been investigated by the Applicant.

Council does not necessarily agree with the comment noting that strict compliance with the height control would require redistribution of gross floor area to lower levels and therefore building separation would be compromised. Compliance with the maximum building height development standard and the building separation controls contained within the Apartment

Design Guide would be expected of any development. The lack of floor space ratio development standard does not affect compliance with these controls.

Given the above, the written request has not adequately addressed that compliance with the development standard is unnecessary or unreasonable in the circumstances of this case.

b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The Applicant's written request gives the following reasons that there are sufficient 'environmental planning grounds' to justify contravening the development standard:

- *The proposal is consistent with the objectives of the development standard and objectives of the B2 Local Centre zone.*
- *The site is not subject to a maximum FSR under CLEP 2012. The area of variation to the height of buildings standard results from the redistribution floor space to achieve the most favourable outcome for the site, including provision of a public plaza which improves ground floor activation for the Wiley Park Local Centre.*
- *The elements exceeding the height standard do not comprise any gross floor area, rather they comprise rooftop elements which ensure that lift access, overruns and plant required for equitable access are provided to the rooftop communal open space. Without these elements the space would be less usable for residents. These elements improve the overall accessibility and amenity of rooftop communal space without impacting on the amenity of the proposed development or neighbouring site.*

Comment:

It is agreed that the elements exceeding the height development standard primarily relate to the lift and stair access. However, the height variation also results from the awning on the roof and part of the balustrades associated with the rooftop. These elements are not discussed within this section of the Clause 4.6 justification.

It is agreed that without lift and stair access (as well as shading and appropriate balustrades), the amenity afforded to the rooftop area would be reduced. However, this by itself is not considered to be sufficient environmental planning grounds to support the variation.

The rooftop design has been revised to reduce the overall bulk and scale appearance when viewed from the street by incorporating the lift overrun and stair access under the awning design as much as possible.

Although the elevation shadow plans submitted to demonstrate the shadow impacts on adjoining properties indicates that the area of contravention will not impact on the adjoining properties, insufficient information has been submitted to determine whether the area of contravention result in additional overshadowing impacts. The shadow diagrams on drawings DA7.01, DA7.02 and DA7.02 do not clearly indicate the area of shadow cast by the part of the buildings that contravene the height development standard. Therefore, Council cannot confidently say that the area of contravention will not result in any adverse overshadowing impacts, compared to that of a compliant design.

In light of the above, the written request has not adequately demonstrated that there are sufficient environmental planning grounds to support the proposed variation to building height.

4. Development consent must not be granted for development that contravenes a development standard unless:

- a. the consent authority is satisfied that:**
 - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

Comment: As detailed above, the written request has not adequately addressed the matters required in subclause 3 above.

- ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**

The objectives for building height seek:

- (a) to establish and maintain the desirable attributes and character of an area,*
- (b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,*
- (c) to support building design that contributes positively to the streetscape and visual amenity of an area,*
- (d) to reinforce important road frontages in specific localities.*

Comment:

The Clause 4.6 variation statement submitted outlines that the proposal is consistent with the objectives of the development standard for the following reasons:

- The height of the proposal is less than one storey above the height limit to accommodate lift overrun, parapet, roof awning and communal roof terrace elements. The bulk of the building complies with the development standard and is consistent with the desired character of the area. The additional height provides communal facilities expected for high quality developments and will provide improved amenity for residents.*
- The Wiley Park Station Precinct will undergo a transition to a high-density mixed-use precinct anchored by the Wiley Park Metro Station. This has resulted in the identification of several sites in the Sydenham to Bankstown Urban Renewal Corridor for significant uplift. The site has been identified for significant uplift and high rise/mixed use development up to 12 storeys in height (35m).*
- Wiley Park is also identified as a Village Centre under the Canterbury Bankstown LSPS and an Urban Renewal Area under the District Plan. The objective for Village Centres includes creating pedestrian friendly environments and civic spaces. The proposal delivers on this directive by providing a publicly accessible plaza space at the ground level which removes any opportunity to provide communal open space on the site, other than on the roofs of the buildings.*
- The proposal is consistent with this strategic direction for the area.*
- Marchese Partners have undertaken an overshadowing analysis which is enclosed in the Architectural Plans (Appendix C). The plaza within the site achieves good levels of solar access at midwinter and the proposed height variation results in no additional overshadowing impacts beyond that of a compliant development.*
- The rooftop awning has been designed to ensure that the roof space is useable and provides sun shading and weather-proof coverage for residents without overshadowing the public plaza below or neighbouring sites. Useable communal open spaces (in particular rooftops of apartment buildings) have become valuable assets to*

residents and will remain a critical element of design as people continue to transform the way they work and live, as well as seeking better use of both public and private spaces.

- The lift overrun structure has been relocated from its previous integration with the building parapet, as illustrated in Figure 3 above, to reduce the perceived bulk of the height exceedance and reduce any risk of overshadowing impacts.*
- Overall, the non-compliance with height does not result in any additional overshadowing impacts.*
- The elements on the rooftop provide for a usable and accessible communal open space for residents which then frees up ground level space for public access. This ground level plaza will contribute to the streetscape and site activation, encouraging pedestrian activity around and through the site.*
- The rooftop elements will not detract from the visual amenity of the buildings and will provide for a high-quality aesthetic and a usable area of benefit to the site's residents.*
- Ground Level to Level 04 of the proposed development addresses both Lakemba Street and King Georges Road frontages and provides activation at the ground plane as required in Canterbury Development Control Plan 2012 (CDCP 2012).*
- All buildings are appropriately setback from Level 4 along Lakemba Street and King Georges Road to minimise bulk and massing and ensure an appropriate human scale and adjacent residential areas.*
- The elements which exceed the building height control will not detract from the development's ability to reinforce the road frontages to Lakemba Street and King Georges Road.*

Council is generally in agreement with the comments provided above except in relation to overshadowing. As noted earlier, the shadow diagrams on drawings DA7.01, DA7.02 and DA7.02 do not clearly indicate the area of shadow cast by the part of the buildings that contravene the height development standard. Therefore, Council cannot confidently say that the area of contravention will not result in any adverse overshadowing impacts, compared to that of a compliant design. Subsequently, the Applicant has not adequately demonstrated that the design, despite the contravention, is consistent with the objectives of the standard, particularly objective (b) which is considered to be a key objective.

The objectives for the B2 Local Centre Zone seek:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- To encourage employment opportunities in accessible locations.*
- To maximise public transport patronage and encourage walking and cycling.*
- To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

Comment:

The Clause 4.6 variation statement submitted outlines that the proposal is consistent with the objectives of the B2 Zone for the following reasons:

- The proposal provides a mix of retail and residential uses that are appropriate for the site and the Wiley Park Station Precinct. The retail will serve the needs of the residents of the development and the surrounding community.*
- The ground floor commercial and public domain improvements will create a vibrant, active and safe environment for the benefit of the greater community as well as for residents.*
- Location of the communal open space on the roof assists in the delivery of ground floor public domain to support the community functions on and around the site.*

- *The site is close to Wiley Park Railway Station. The public plaza provides pedestrian through links to from Lakemba Street to King Georges Road and the station, which improves access. The proposal co-locates retail jobs with residential dwellings, improving local employment.*
- *The rail line and future Metro Station will provide to connections to employment throughout Sydney.*
- *Wiley Park Railway Station and bus interchange services connect to the site. The proposal encourages pedestrian movement via the through site links of the central public plaza. Bicycle storage is provided as part of the proposal and is encouraged.*
- *The development supports the revitalisation and economic growth of the Wiley Park local centre, which has a number of vacant commercial uses. The proposal is a significant investment in the town centre and will be a catalyst for future redevelopment.*

Council agrees with the above and agrees that the development (including the variation) is consistent with the objectives of the B2 Local Centre Zone. Although the variation is consistent with the objectives of the zone, for the reasons mentioned above, insufficient information has been submitted to demonstrate that the proposed variation is consistent with the objectives of the development standard. For this reason, approval of the development would not be in the public interest.

b. the concurrence of the Secretary has been obtained.

Comment:

The concurrence of the Secretary is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 17-006.

Conclusion

The variation statement submitted has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify a contravention to the height of buildings development standard. Furthermore, insufficient information has been submitted to demonstrate that the variation is consistent with the objectives of the height development standard. Subsequently, the variation to the height standard is not considered to be in the public interest.

With regard to the above, it is not considered appropriate in this instance to support the submission under Clause 4.6 of CLEP 2012 to permit the proposed development.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

Draft Canterbury Bankstown Consolidated Local Environmental Plan

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP_2019_CBANK_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also

seeks to insert a saving provision “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”.

The proposed development will not impact the Draft CBLEP and is considered consistent with the CBLEP.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in Canterbury Development Control Plan 2012.

Canterbury Development Control Plan 2012 (CDCP 2012)

The proposed development has been compared to the requirements of CDCP 2012 as follows:

Part B1 – Transport and Parking

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
Residential Car Parking	In this circumstances of this application, the residential car parking rates outlined within the RMS Guide to Traffic Generating Developments applies to the site. An assessment of the development against these rates is discussed within the ADG section of this report.		Yes
Residential Bicycle Parking	Residents: 1 space per 5 dwellings (30 spaces required). Visitors: 1 space per 10 dwellings (15 spaces required) Total: 45 spaces required.	51 bicycle spaces proposed as follows: - 36 residential bicycle spaces. - 15 visitor bicycle spaces.	Yes
Retail Car Parking	Parking: 1 space per 27smq = 80.2 (80) spaces required. Visitor: 80% of parking rate to be allocated to visitors and short-stay parking. 20% of parking rate is to be allocated to staff and long-stay parking. Trolley Storage: Where a supermarket is proposed, areas for the storage of shopping trolleys are to be incorporated in the car park.	98 retail parking spaces proposed. This allocation can be conditioned. Trolley bays are incorporated into the basement design.	Yes Yes – via condition of consent should the application be supported. Yes

Retail Parking	Bicycle	Staff: Minimum 1 space per 300m ² = 7.2(7) spaces Patrons: Minimum 1 space per 500m ² GFA over 1,000m ² = 2.32(2) spaces TOTAL: 9 spaces	21 bicycle parking spaces on Level B1.	Yes
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In addition to the above, the design also incorporates a combined residential and commercial loading/unloading bay at ground floor. Two goods lifts adjoin the loading bay to provide for access to the supermarket in the basement. There are also service corridors to assist in transporting any goods to the remaining retail premises at ground level. Council raises concern regarding how the combined residential and commercial loading/unloading bay will be used to avoid any potential conflict between the two uses utilising it. The documentation submitted does not address this.

Furthermore, the application was referred to Council's Traffic and Transport Division who raised concerns with the design. The concerns are discussed in detail within the referral section of this report below.

Part B2 – Landscaping and Part B3 – Tree Preservation

The application submitted a Landscape Plan prepared by a suitably qualified Landscape Architect in accordance with the requirements of Part B2 of CDCP 2012. The Landscape Plan could form part of the conditions of consent, should the application be supported, to ensure that the proposed development adequately satisfies the requirements.

The application was also referred to Council's Tree Management team who raised no objection with the current design, subject to conditions of consent, should the application be supported.

Part B4 – Accessible and Adaptable Design

The Access Report prepared by Accessibility Solutions (NSW) Pty Ltd) dated 30 September 2020 was submitted as part of the DA. The report concludes that the design generally complies with the relevant standards. Where the design includes some non-compliances, these matters can be resolved through further design details being provided at the relevant Construction Certificate stage. The report was reviewed by Council's Building Surveyor who raised no objection. On this basis, the design is considered acceptable from an accessible and adaptable design perspective. The recommendations of the report could be incorporated into conditions of consent, should the application be approved.

Part B5 – Stormwater and Flood Management

The application was referred to Council's Development Engineer who raised concerns with the design. The concerns are detailed within the Referrals Section of this report.

Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	The design avoids blind corners.	Yes
	Provide natural surveillance for communal and public	The ground floor retail design allows for natural	Yes

	areas.	surveillance of Lakemba Street and King Georges Road as well as the internal public plaza. At least one habitable room of each of the residential apartments located on the upper floors are orientated towards the adjoining street fronts and internal public plaza to facilitate natural surveillance.	
	Provide clearly visible entries.	The entry points to the retail components are clearly defined along the ground floor within the public plaza as well as along the two street frontages. The residential entry points are also clearly visible through the use of different awnings compared to the awning provided above the retail components. Further elements such as signage and the like can be conditioned, should the application be supported.	Yes Yes – via condition of consent should the application be supported
	Design the fence to maximise natural surveillance from the street to the building.	No fence proposed.	N/A
	Avoid landscaping that obstructs natural surveillance.	Landscaping on the ground floor and on upper levels will not obstruct natural surveillance.	Yes
	Ensure buildings are clearly identified by street numbers.	Can be conditioned.	Yes – via condition of consent should the application be supported
	Use materials that reduce the opportunity for vandalism.	Can be conditioned.	Yes – via condition of consent should the application be supported
	Provide an appropriate level of security for individual dwellings, car parks and communal areas through use of intercoms, self-closing doors and signage.	Can be conditioned.	Yes – via condition of consent should the application be supported

Part B9 – Waste

The application was referred to Council's Project Officer – Resource Recovery who raised concerns with the design. The concerns raised are discussed in detailed within the referral section of this report below.

- **C5 - Shop Top Housing**

The table below provides an assessment of the proposed design against the relevant controls outlined in Part C5 of CDCP 2012.

Standard	Requirement	Proposal	Complies
C5.2.1.3 – Balconies and Communal Open Space	The apartment layout and communal open space requirements specified within Part 3D and 4E of the ADG override the balcony and communal open space controls outlined within Part C5.2.1.3 of CDCP 2012. An assessment of the proposal against these ADG controls has been undertaken earlier within this report.		
C5.2.1.4 – Layout and Orientation	Orientate development to maximise solar access and natural lighting.	Majority of openings for the apartments are orientated to the east/north/west to maximise solar access. However, as discussed earlier within this report, the proposed development does not meet the minimum solar access provisions contained in the ADG.	No
	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	The design complies with the minimum building separation controls to the site's boundaries. The development has been designed to avoid casting shadowing onto neighbouring properties as much as possible.	Yes
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	The development has been sited to avoid existing shadows cast from nearby buildings.	Yes
	Site a building to take maximum benefit from cross-breezes and prevailing winds.	The design of the building benefits from the prevailing winds. However further redesign is required to ensure compliance with minimum natural ventilation requirements.	No
	Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.	The orientation of the design does not compromise the creation of active street frontage/casual surveillance.	Yes
C5.2.2.1 – Floor Space Ratio	The development is to comply with the maximum FSR development control stipulated within CLEP 2012.	A maximum FSR development standard does not apply to the site pursuant to CLEP 2012.	N/A

C5.2.2.2 – Floor to Ceiling Height	The floor to ceiling heights specified within Part 4C of the ADG override the floor to ceiling height controls outlined within Part C5.2.2.2 of CDCP 2012. An assessment of the proposal against these ADG controls has been undertaken earlier within this report.		
C5.2.2.3 – Setbacks	The development is assessed against the relevant setback controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.3.2.3(C1) of CDCP 2012.		
C5.2.2.4 – Building Depth	The ADG sets the objectives and controls for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.		
C5.2.2.5 – Building Separation	The ADG sets the objectives and controls for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.		
Part C5.2.3 – Building Design			
Building Entries	Provide accessible entries for all potential use such as the transporting of furniture.	Entry to the residential component is accessible to facilitate the transporting of furniture.	Yes
	Face habitable rooms towards the street, private open space, communal space, internal driveways etc in order to promote passive social interaction and community safety.	The design includes facing habitable rooms windows towards the street, private open space, communal space and internal driveways.	Yes
Façade Treatment	The development is assessed against the relevant façade treatment controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.2.3.1(C3) of CDCP 2012.		
C5.2.3.2 – Roof Design and Features	Roof terraces are permitted with consent in all business zones except the B1 zone.	A roof terrace is proposed and is permitted in the B2 zone.	Yes
	A management strategy is required, and must be approved by Council as part of the development application, for any proposed roof terrace.	A rooftop management plan has been submitted.	Yes
	Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.	Each rooftop terrace comprises suitable weather protection, seating, tables, children’s playground and/or BBQ area.	Yes
	Demonstrate that roof terrace has been designed so as to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties, and preventing rooftop users from	The rooftop terraces are centrally located within the building design and are therefore setback from the boundaries to minimise visual and overshadowing impacts. Landscaped areas are also proposed along the edge of	Yes

	standing at the edge of roof terraces that look into adjoining properties through planting and screens.	the terraces to minimise overlooking into adjoining properties.	
	Allow for views and passive surveillance of streets and public open space from roof terraces.	The design allows for views and passive surveillance of adjoining streets.	Yes
C5.2.3.3 – Dwelling Layout and Dwelling Mix	Min 10% of apartments to be adaptable or accessible	15 of the 150 apartments proposed (10%) are proposed to be accessible/adaptable.	Yes
C5.2.3.4 – Building services	All letterboxes be installed to meet Australia Post Standards	This can be conditioned.	Yes – via condition of consent should the application be supported.
	Design and provide discretely located mailboxes at the front of the property.	Mailboxes are integrated within the pedestrian entry point for each residential entrance.	Yes
	Integrate systems, services and utility areas within the design of the whole development.	System, services and utility areas integrated within design of the development.	Yes
C5.2.4.1 – Solar Access and Overshadowing	The ADG sets the objectives and controls for solar access and overshadowing in the LGA for Shop Top Housing to which SEPP 65 relates. Refer to 4A Solar and Daylight Access of the ADG for objectives, design criteria and design guidance.		
Solar Access and Overshadowing – Adjoining Development	Development to retain a minimum of 3 hours of sunlight between 8am-4pm on 21 June for existing living areas and 50% of the principal private open space.	Refer to comment [1] below.	No – refer to comment [1] below
C5.2.4.2 - Acoustic Privacy	Communal balconies are not to be located directly adjoining bedroom window.	No communal balconies directly adjoin bedrooms windows.	Yes
	Bedroom windows in new dwellings that would be located at or close to ground level are be raised above, or screened from, any shared pedestrian pathway.	No residential dwellings are proposed on the ground level. All residential apartments are raised above the ground floor.	Yes
	Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp	The east facing balconies and windows on levels 1-3 are appropriately screened as shown on drawing nos. DA8.05 and DA8.06.	Yes
	Design to address all requirements in 'Development Near Rail Corridors and Busy	This is discussed under the ISEPP section of this report.	Yes

	Roads- Interim Guideline'		
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[1] Part C5.2.4.1 - Solar Access and Overshadowing – Adjoining Development

Controls C1 and C2 in Part C5.2.4.1 of CDCP 2012 state the following:

C1 Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.

C2 If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property

The objective of Part C5.2.4.1 is as follows:

O1 To ensure habitable areas have reasonable daylight access.

An assessment of the proposal against the above controls is provided in the table below:

Affected Site	Comment	Comply
East (278 Lakemba Street)	- The existing western elevation is in shadow (cast by the building itself) until 3pm on 21 June. - Therefore, the living room windows and balconies along the western elevation currently receive less than 3hr solar access. - The proposed development impacts the site (specifically the western elevation) at 4pm. - Therefore, the development results in further non-compliance.	No
South (72-74 King Georges Road)	- The living rooms and private open space (balconies) within the property are orientated primarily to the east and west. - Living room windows to the east facing apartments comprise a window along the northern elevation as well. - The windows serving the living room on the eastern elevation receive less than 3 hours solar access on 21 June. The proposed development does not further reduce this. However, it is noted that the proposed development does impact the northern facing window that serves the living room of these east facing apartments (3 apartments). As a result of the proposed development, the 2 of the north facing windows will receive 2 hours solar access on 21 June and 1 of the north facing windows will receive 1-hour solar access on 21 June. - The east facing balconies will continue to receive solar access for 3 hours on 21 June. - In terms of the west facing apartments, the living room windows and balconies	No

	already receive less than 3 hours solar access on 21 June as they are primarily in shadow cast by the building until 1pm. The proposed development results in further non-compliance to 3 of the west facing apartments from 1pm-3pm on 21 June.	
South (76 King Georges Road)	- There are 4 buildings located on 76 King Georges Road (nominated as buildings A, B, C and D on the shadow plans submitted). - The existing buildings do not comprise any private open space. However, it is noted that at least 50% of the central communal open space within the site will maintain at solar access between 10am-2pm on 21 June (4hours), which is considered acceptable. - The proposed development impacts building A at 4pm only. However, at this time, the northern elevation (that contains living rooms windows) is already in shadow by the adjoining development. Therefore, the proposed development does not impact this property any further. - The proposed development impacts building B at 2pm and 4pm only. However, at this time, the western elevation (that contains living rooms windows) is already in shadow. Therefore, the proposed development does not impact this property any further. - The proposed development impacts building C at 3pm and 4pm only. However, at this time, the western elevation (that contains living rooms windows) is already in shadow or windows are not impacted. Therefore, the proposed development does not impact this property any further. - The proposed development impacts building D between 1pm-4pm. However, the northern elevation (that contains living room windows) receives 4 hours solar access between 9am-1pm and therefore adequate solar access is maintained.	Yes
West (Opposite side of King Georges Road)	The proposed development does not impact the existing development to the west, on the opposite side of King Georges Road after 10am and therefore sufficient solar access is maintained to these properties.	Yes

The Statement of Environmental Effects submitted is silent on whether adequate solar access is maintained to adjoining properties. Council has reviewed the solar access and overshadowing documentation submitted. As discussed within the table above, Council's assessment found that the properties orientated towards the development to the east and

south of the site (278 Lakemba Street and 72-74 King Georges Road respectively) already receive less than 3 hours solar access by virtue of being in shadow cast by the building itself or by existing adjoining development.

The proposed development in both instances, further impacts the level of solar access afforded to the adjoining development. The proposed variation to the solar access provision for these two properties is discussed below.

In terms of the development to the east of the subject site (278 Lakemba Street), the building is in shadow itself until 3pm. At 3pm the windows and balconies along the western elevation receive solar access. However, at 4pm, the proposed development will impact the windows and balconies located to the south of the building. Therefore, the dwellings located along the western elevation of the property to the east will only receive approximately maximum 1-hour solar access on 21 June.

In terms of the development to the south of the subject site (72-74 King Georges Road), the proposed development will impact 6 dwellings located in the existing shop top housing development. As detailed in the table above, adequate solar access will be maintained to the east facing balconies however the living rooms windows associated with the three affected east facing apartments will only receive 1-2hours of solar access. In regard to the three west facing apartments impacted by the proposed development, the living room windows and balconies are primarily in shadow from 8am-1pm. The proposed development impacts these properties between 1-3pm. However, some level of solar access will be maintained to the balconies and/or living room windows between 2pm-4pm.

The proposed variation is considered acceptable and consistent with the objective of Part C5.2.4.1, in this instance, given the following:

- The proposed development has been sited to try and minimise impacts (including overshadowing) on adjoining properties.
- The design achieves compliance with the minimum building separation controls to the southern and eastern boundaries. In some instances, a greater separation than the minimum requirement is provided.
- The existing property to the south of the site is located within 3m of the northern boundary shared with the subject site. This building separation distance does not comply with the current standards applicable in the ADG today. An additional setback for the first 4 storeys (9m rather than the required 6m) has been accommodated on the subject site to try and minimise impacts on the property to the south.
- The design incorporates a minimum 13.5m separation between buildings 1 and 2 on the subject site to encourage solar access within the site as well as to adjoining properties.
- The shadow impact diagrams provided within drawings DA7.15-7.21 demonstrate that the proposed height breach does not result in further overshadowing impacts on the elevations of adjoining properties.
- The overshadowing impacts resulting from the proposed development can be considered to be somewhat attributed to the building height permitted on the site, the existing lower scale nature of the existing adjoining properties, the proximity of existing buildings to the site boundaries (particularly in regard to 72-74 King Georges Road) as well as the orientation of the site and its relationship with the adjoining properties.
- The proposed development maintains some level of solar access to the impacted properties which is considered reasonable in the circumstances of this case.

- **D1 – Business Centres - General**

The table below provides an assessment of the proposed design against the relevant controls outlined in Part D1 of CDCP 2012:

Standard	Requirement	Proposal	Complies
D1.2.1 – Minimum Frontage	A minimum frontage of at least 18m shall be provided.	The site's frontage to King Georges Road and Lakemba Street is greater than 18m. The site does not isolate the property to the south as it comprises a minimum frontage of 18m. The property to the east is zoned residential.	Yes
D1.3.3 – Floor to Ceiling Height	The floor to ceiling heights specified within Part 4C of the ADG override the floor to ceiling height controls outlined within Part D1.3.3 of CDCP 2012. An assessment of the proposal against these ADG controls has been undertaken earlier within this report.		
D1.3.4 – Setbacks	Front Setback: 1-3 storeys built to front boundary	King Georges Road: 1-3 storeys built to front boundary Lakemba Street: 1-3 storeys setback 3m from front boundary	Yes
	Front Setback: Greater than four storeys – 5m (all storeys to be set back this distance including the fourth storey)	King Georges Road: 4-8 storeys are setback min 4.2m from boundary. Rooftop is setback 5m. Lakemba Street: 4-8 storeys are setback minimum 4.7m from boundary. Rooftop is setback 7m.	No – refer to comment [2] below
	Side setbacks: Except where a proposed development adjoins a residential zone boundary, setbacks are not required in the B2 zones when the desired character is for a continuous street frontage.	A setback of 9m is provided to the B2 zoned land to the south given it comprises residential development. 9m is provided as the existing development to the south is only setback 3m from its northern boundary and therefore the additional setback was required within the subject site to achieve compliance with the building separation controls outlined within the ADG relevant to the number of storeys (4 storeys) provided on the adjoining site.	Yes

	Proposed developments that adjoin residential zone boundaries to the side are to comply with the side setback that is defined by D1.3.4(C4-C6).	All levels comply with building height plane except minor portion of the balconies associated with Level 7 and minor portion of the balustrade associated with rooftop.	No – refer to comment [2] below
D1.3.5 – Building Depth	Building depth for commercial premises must be Min 10m and Max 24m in depth	Only 4 of the 20 retail tenancies meet the minimum 10m depth requirement. All other tenancies are under the 10m depth requirement. The size (including depth) of the retail tenancies lacks variety to cater for a range of uses. This concern was raised at the initial briefing to the Panel.	No
	Max Street frontage wall length of 50m.	<50m. Wall frontage length ranges between 22m-34m.	Yes
D1.4 – Building Design	Design and orient development to maximize solar access and natural light, without unduly increasing the building's heat load.	The development has been orientated to maximise solar access from the northerly and westerly aspects.	Yes
	Locate entries so they relate to existing street and are clearly visible	Entry points along King Georges Road and Lakemba Street relate to the existing street pattern and are clearly visible.	Yes
	Provide entries to upper levels from the street front façade to encourage activities on the ground floor.	Separate entry to the residential component in Building 1 is provided along King Georges Road.	Yes
	Provide an awning over entry to contribute to legibility and the public domain	Awning provided over entry points along street frontages and within plaza.	Yes
	The façade of the building shall be built to the front street boundary	The first three storeys of the development are built to the existing street front along King Georges Road and the proposed street front along Lakemba Street,	Yes
	Cantilevered awning to overhang the footpath a minimum width of 3m	Cantilevered awning overhangs footpath by 3m.	Yes
	Cantilevered awning height to be in the range of 3.2m-4.2m	Awning is 3.5m-4.1m above ground level.	Yes
	Posted awnings or colonnades	The design does not include	Yes

	will not be supported.	a posted awning or colonnade.	
	Windows on the street frontage must not be mirrored.	To be conditioned.	Yes – via condition of consent should the application be supported
	Do not place external solid roller shutters or brick walls on shopfronts	None proposed.	Yes
	Security grilles must be discreet.	None proposed.	Yes
D1.4.3 – Façade Treatment	New building forms and design features shall not mimic traditional features.	The proposed building does not mimic traditional features.	Yes
	Incorporate contrasting elements in facades	The design incorporates contrasting elements in the façade.	Yes
	Use a harmonious range of high-quality materials, finishes and detailing.	High quality materials proposed. The range is considered acceptable as the use of materials help differentiate the base, middle and upper levels of development	Yes
	Consideration in the design of commercial premises is to be made for mechanical ventilation required by potential future food shops and restaurants	Adequate floor to ceiling height is provided to retail tenancies to enable mechanical ventilation to be incorporated into tenancy, if required. Furthermore, service rooms are provided on the ground floor of each building to connect to, if required.	Yes
	Refer to existing height datum for new development to existing buildings such as eave and parapet lines, as a guide to aligning the height to levels of adjacent development	This control primarily applies for development in B2 where a nil setback is provided. This isn't the circumstance in this case. Notwithstanding, the design does align with the nearby mixed-use development as much as possible given the slope of the road.	Yes
D1.4.4 – Roof Design	Roofs must not exceed pitch of 10 degrees	Roof does not exceed pitch of 10 degrees.	Yes – via condition of consent should the application be supported

	Relate roof design to the desired built form and context.	Flat roof is in keeping with roof design of buildings located in the B2 zone.	Yes
D7.8 – Wiley Park	Development in the Wiley Park Local Centre is to be in accordance with the structure plan shown in Figure D7.8	The proposal incorporates retail tenancies on the ground floor along the King Georges Road and Lakemba Street frontages. This design facilitates an active street front. The design also incorporates the laneway and a public plaza place that runs up the middle of the site.	Yes

[1] D1.3.4 – Setbacks

The objectives of the Setback controls are as follows:

- O1 To establish the desired spatial proportions of the street and define the street edge.*
- O2 To minimise building size and bulk by setting back upper storeys.*
- O3 To minimise amenity impacts on adjoining properties.*
- O4 To encourage increased setbacks along Canterbury Road to provide for possible future implementation of street parking and assist in reducing traffic noise impacts.*
- O5 To allow for flexible design and building articulation by permitting minor encroachments.*

The proposed design results in a variation to the following setback controls contained within Part D1.3.4:

- **Front Setback:** Control C2 requires that for developments greater than 4 storeys, a 5m setback is provided (including the 4th storey). Given the unique presentation of the buildings to King Georges Road and Lakemba Street, the front setback control has been applied to both street frontages. This approach will also ensure the design is in keeping with the objectives of the setback controls. Storeys 4-8 (indicated as Levels 3-7 on the architectural plans) comprise a setback to King Georges Road and Lakemba Street between 4.2m-5m resulting in a maximum 0.8m or 16% variation.
- **Side Setback:** Controls C4-C8 require the following:
 - *Establish a 45degree height plane projected at 1.5m from the residential boundary.*
 - *Provide minimum 1.5m setback to the residential zone boundary.*
 - *A two-storey limit on the boundary with residential zone applies. (refer to Figure D1.1 in CDCP 2012).*

As demonstrated in the Figures below, all levels of Building 2 are contained within the building height plane with the exception of a minor portion of the balconies located on Level 6 and a minor portion of the balustrade associated with the rooftop.

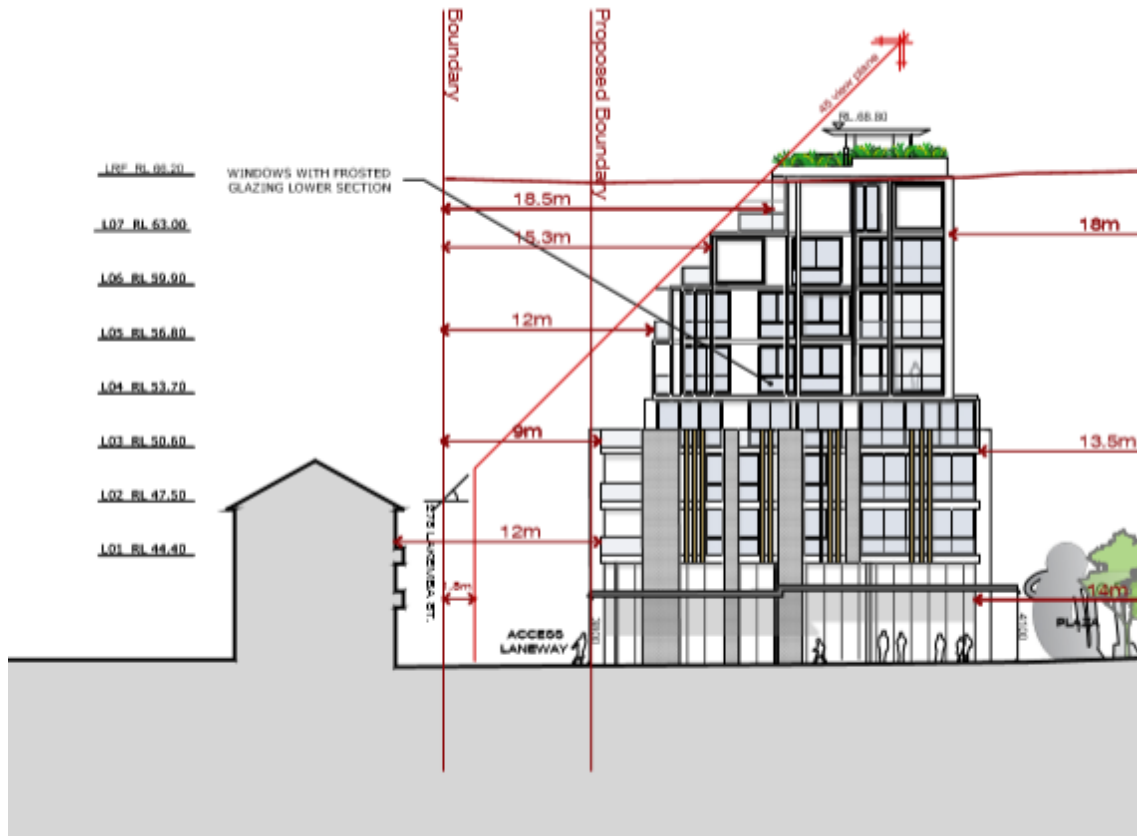


Figure 8: Northern Elevation of Building 2
Source: Marchese Partners

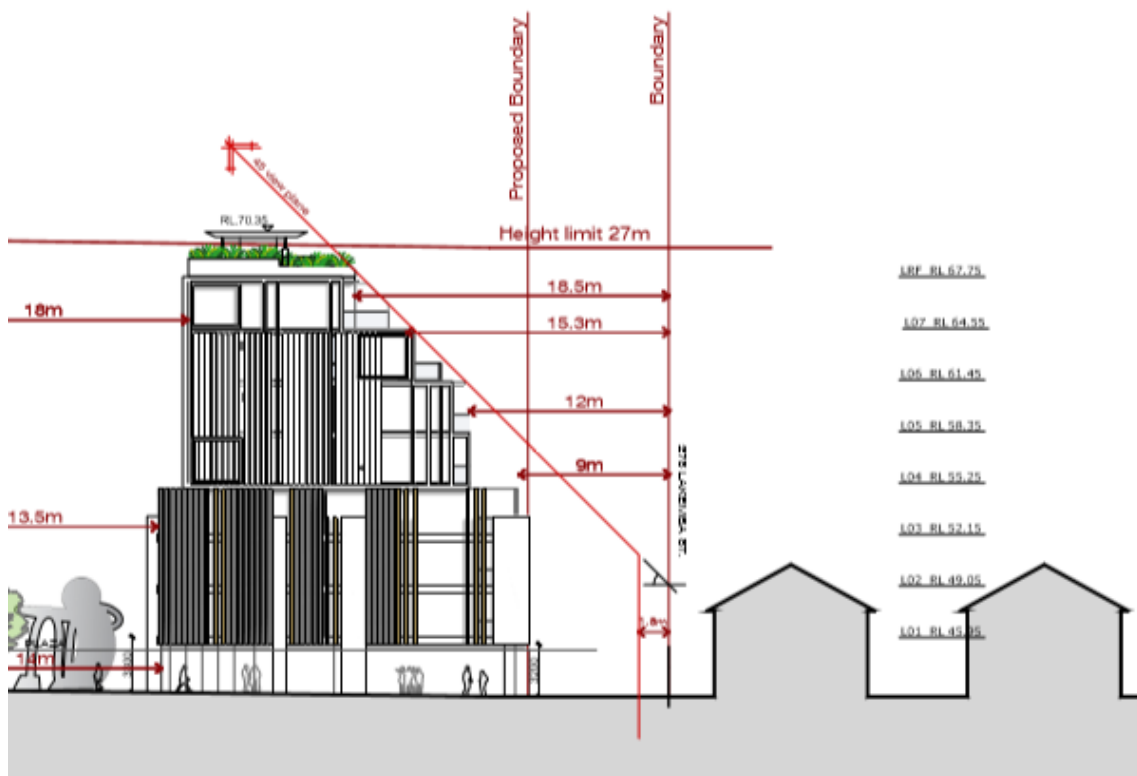


Figure 9: Southern Elevation of Building 2
Source: Marchese Partners

Although the design seeks to vary the setback controls as above, the design is still in keeping with the objectives of the setback controls given the following:

- The minor protrusions in the front setback controls result from architectural design features. No additional gross floor area or habitable space is located within the protrusions.
- The minor protrusions occur at intervals along the King Georges Road and Lakemba Street facades.
- The main building line is setback 5.5m from the front boundary along the King Georges Road and Lakemba Street facades.
- The minor protrusions to the front setback controls are located on the upper levels of the development and the design still defines the two street edges.
- The design achieves compliance with the building separation requirements specified within the ADG, including the additional setbacks requirements to the eastern boundary given the land to the east comprises a lower density residential zone.
- The minor point intrusions along the eastern elevation (side elevation) primarily result from the inclusion of balcony diving walls on level 7 and the balustrade of the rooftop.
- Although the design incorporates more than 2 storeys on the residential boundary (side boundary), the building is contained within the height plane given the substantial setback proposed to the eastern boundary.
- Given the orientation and the controls applicable to the site, amenity impacts on the adjoining development to the east are inevitable. However, the increased building setbacks to the eastern boundary, assist in maintaining a suitable level of visual privacy and solar access to the properties to the east.
- The upper levels on each elevation of the four buildings comprise a greater setback than the lower levels to minimise perceived size and bulk of the development.

In light of the above, the proposed minor variations to the front and side setback requirements are considered acceptable in this instance.

Referrals:

- Traffic

Council's Traffic and Transport Engineer raised a number of concerns that are summarised below. It is noted that the concerns raised cannot be conditioned given further information is required to facilitate a detailed assessment and, in some instances, the required changes are likely to result in further design changes.

- Concern that the travel routes of vehicles to access the site increases traffic movements at the signalised intersections of Lakemba Street/ Wangee Road and Lakemba Street/Haldon Street and The Boulevard/ Haldon Street. These have not been adequately assessed by the Applicant, as requested.
- The proposed design (including the extension of the median strip along Lakemba Street) will result in additional traffic impacts on local streets which have not been appropriately considered by the Applicant, as requested.

- Development Engineer

Council's Development Engineer raised a number of concerns that are summarised below. It is noted that the concerns raised cannot be conditioned given further information is required to facilitate a detailed assessment and, in some instances, the required changes are likely to result in further design changes.

- *The proposed longitudinal section of a new laneway and driveway crossing, as a connection to Lakemba Street, is to be uniform without showing signs of dipping or rising levels. Further longitudinal sections would be required to be taken along the*

turning path of B85, from the center line of Lakemba Street to the basement parking area. Such sections are to show ground clearance in accordance with AS2890.

Stormwater

- The proposed finished floor levels of OSD (plan DA-STW-201/C Oct 02 2020) do not reflect the architectural FFL (plan DA-STW-105/C Oct 02 2020).
- The applicant needs to demonstrate that the proposed OSD reduces the potential for local flooding and damage to existing properties by limiting runoff from new development. A "Drains" modelling for existing and post development discharge at the critical event can be provided with amended design and shall include modelling of OSD. Amended Stormwater Concept Plan is required and would need to provide additional details including justification/calculation for the OSD.
- If a rainwater tank is proposed as a solution to minimize post development stormwater drainage discharge, then the reservoir must be plumbed to appropriate end uses (e.g. toilet flushing, garden irrigation or car washing) to ensure sufficient use of rainwater tank.
- The proposed connection to Council drainage system is not acceptable and shall be amended to comply with the Development Engineering Standards.
- Relocation of the existing stormwater pipe shall be indicated on amended plan and a new stormwater pipe shall be constructed under a new kerb alignment, and in accordance with Council standard drawing. New pit and lintel shall be coordinated with the civil design for driveway crossing.

Laneway

- The proposed width of the laneway along the eastern boundary is not consistent within the information submitted. The width differs between the SEE and plans submitted.
- The applicant shall clearly indicate new property boundary/new laneway that will be dedicated to Council. It is preferred to make a new property boundary alignment behind the kerb (kerb and gutter are part of one whole infrastructure component), which will subsequently be $6.675\text{m} + 1.850\text{m} + 0.150\text{m} + 0.040\text{m} = 8.665\text{m} \sim \underline{\underline{8.670\text{m}}}$. The $0.150\text{m} + 0.040\text{m}$ is measured from the invert of the gutter to the back of kerb. This may impact the Letters of Offer provided for dedication of the laneway.
- Cross sections along the centre-line of each access point to the buildings and to the Plaza shall be included on the plans, and the sections shall show the calculated clearance to the underside of any overhead structure. Any adjustments to the internal levels to ensure safe pedestrian ingress/egress (including disabled access) must occur entirely within the internal area of the subject property. All entry points are to comply with the Building Code of Australia (BCA), particularly disability requirements and fire exit. The Council approved/agreed footpath levels must be accommodated at the building entry points and the Plaza.
- The construction of a new footpath is required across the entire site frontage in Lakemba Street and King George Road and within the new laneway. A longitudinal section is required along the footpath property boundary at the proposed alignment, extending 5.0 m past the property side boundaries. The footpath must be designed at a single cross fall straight grade falling to the top of kerb (as per Council Infrastructure specialist's requirement) so that it is uniform without showing signs of dipping or rising levels, particularly at entrances. The new footpath levels must match existing levels at the side boundary if there is an existing entrance to private property or within the transition area. A long-section shall include all cross-sections requested as per the previous note of this document. The cross and long-sections shall include both existing

& proposed levels, chainage (distance), and the cross/longitudinal slope of the new footpath.

- Clear sightlines must be provided at the property line to ensure adequate visibility between vehicle leaving the car park and approaching pedestrians along the footpath. The proposed splay corner at the access ramp for underground parking must be supported by swept paths for both ingress/egress of vehicles.*
- The swept path for HRV is showing very tight maneuvering and will require widening of the entry, by adjusting curve of footpath/kerb on both sides.*
- Same issue is noted for vehicles leaving the laneway and turning left in to Lakemba Street. The footpath/kerb fronting the Substation in Laneway shall be reduced to allow safe maneuvering for vehicles.*

Parking

- Any proposed parking lot placed in the middle of two adjacent lots (2.4 m wide) shall be adjusted to comply with AS2890.1. The Applicant shall provide sufficient width for each parking spot, and increased width shall be in accordance with the Figure 2.2 & 5.2 of AS2890.1.*
- In addition to parking arrangement, the applicant shall provide dimensions for required clearance and shall include maneuvering for wheel chair to justify complying with AS2890.1*
- The swept path shall be provided for B99 in both directions.*

Other

- The proposed entry to the Plaza from King George Road should include an access for people with disabilities/wheel chairs.*
- The applicant shall arrange relocation of the existing Post Box with Australia Post, and shall include a new location on any future plans.*

*- **Infrastructure Specialist***

Council's Infrastructure Specialist raised the following concerns with the current design. It is noted that the concerns raised cannot be conditioned given they will likely result in further design changes.

Vehicular Crossing.

- The wings of the vehicular crossings shall be modified to consider the swept paths of entering and existing vehicles*

Lakemba Street Drainage pit at western side of Lane

- Delete surface inlet and relocate kerb inlet and double grate inlet pit upstream of the neighbouring vehicular crossing.*
- Ramp shall be clearly shown.*

Cross sections

- Cross section at chainage 0 not supplied, so difficult to access relationship from design to existing*

Long section

- The long section does not provide any information as to the levels past the property, making it unclear how the proposed long section will relate to the existing levels in Lakemba Street, particularly the footpath.*

- The long section does indicate that the proposed lip does match the existing lip levels on the long section above however there is concern with the footpath long section and how the proposed levels will match the existing.
- The long section needs to extend at least 20m past the property boundary to describe how this design relates to the adjoining kerb and gutter and footpath
- The existing levels shown on the following page would indicate there will be a significant level drop between the existing vehicular crossing to the adjoining property and the proposed levels

Survey

- Indicated 180mm difference at the laneway control line and the existing boundary
- A long section for the footpath is not provided to see the effect of the proposed levels and whether that drop can be realistically managed.
- The footpath needs to grade from the existing level at the adjacent vehicular crossing to the design level on the western side of the proposed laneway.
- The proposed footpath level across the laneway is not acceptable.

Drainage in Lakemba Street

- It has been previously advised that the existing gully pit in Lakemba Street shall be relocated upstream of the vehicular crossing of the adjacent property. This needs to be documented in the drawings.
- Relocation of Lakemba Street Drainage

Laneway

- The laneway long section has been improved, however there are some details that will require adjustment, and this will also be affected by the footpath level issue along Lakemba Street.

Ramp at Lakemba Street boundary

- The latest design does indicate the ramp however the levels will not achieve the “vanishing” kerb as discussed.
- The ramp shall terminate at the Lakemba Street boundary, it presently is shown extending into the Lakemba Street “footpath”.
- The profile of the vehicular crossing and ramp shall be confirmed to comply with the Australian Standards. The extension of the kerb to the boundary of Lakemba Street will match the proposed boundary level, the gutter will terminate at the base of the ramp and will not be evident in the lane cross section at the boundary.
- The Ramp/Laneway boundary levels will need to reflect the longitudinal gradient of Lakemba Street, which is to the west at 0.8% at this location, at the moment it is close to level, which will make the junction of the existing footpath difficult.
- It is considered that a one-way crossfall to the west should be adopted for the entire laneway, with kerb and gutter constructed on both sides of the lane for the entire length, albeit except for dish crossings/laybacks for the vehicular entrances.

Architectural Plans

- The plans are acceptable from an engineering perspective however consider that the vehicular entrances/crossings within the lane should be widened or splayed to consider the swept paths of the vehicles. Note: Accepting proposed ground floor levels etc at this stage as these will need to match the boundary levels are indicated on the final approved civil drawings

- **Waste**

Council's Resource and Recovery Officer raises the following concerns regarding the current design. It is noted that the concerns raised cannot be conditioned given further information is required to facilitate a detailed assessment and, in some instances, the required changes will likely result in further design changes.

Waste Management Plan (WMP)

The WMP has not been amended to current plans. An amended WMP is required to complete the assessment.

Areas to address:

- *Super market waste – super markets are high waste generators, usually with multiple waste streams. Infrastructure such as a cardboard compactor is encouraged.*
- *Each retail unit needs space to store and manage their own waste, this may be picked up by separate contractors (unless the building is specifically set up to prevent the strata division of the commercial lots, for example a shopping centre), the WMP is to include details on intended uses and generation for each unit to ensure adequate space.*
- *Truck access for Council and Commercial waste and how this will integrate with the deliveries and other uses of the driveway.*
- *Details on bin decanting equipment and storage.*
- *Long term maintenance and replacement of the turn table. (estimates are that the turn tables suitable for garbage trucks will need replacing in 15-20 years at a significant cost (currently over one hundred thousand dollars) as well as needing yearly maintenance. Contingency plans are required for breakdowns or down time due to maintenance.*

Waste and Recycling Requirements:

Residential Requirements

This development, containing one hundred and sixty (160) residential dwellings, requires allocation of waste and recycling bins:

- *15 x 660L bulk garbage bins (collected twice weekly) + 4 additional bins to remain under chute during collection.*
- *12 x 660L bulk recycling bins (collected twice weekly)*
- *28 x 240L recycling bin for each floor to be decanted into bulk recycling prior to collection. These are not to be presented for collection.*

Bin Type	Height	Width	Depth
240 Litres	1080mm	580mm	735mm
660 Litres	1250mm	1370mm	850mm
1100 Litres	1470mm	1370mm	1245mm

Bins may be upsized to equivalent 1100L bins, however these require a carting route and doorways 2m wide at all points.

All waste and recycling bins are collected by Council from the bin storage room as a collect and return service.

As there is no appropriate street frontage for the presentation of garden waste bins, there is no allocation of green bins to this property. All garden trimmings and waste are to be removed by the contractor.

Commercial Requirements

This development, containing twenty (20) commercial dwellings, requires allocation of waste and recycling bins based on the generation rates detailed in Section B9.5 (C1) (page 117) of Part B9 Canterbury DCP 2012:

- 20 x 240L garbage bins (collected weekly)
- 20 x 240L recycling bins (collected weekly)

All waste and recycling bins provided by Council as part of the standard waste and recycling service are collected by Council from the bin storage room as a collect and return service.

Additionally, the development includes a 1044sqm super market requiring its own commercial waste collection of 2,500L garbage and 3,200L recycling **PER DAY**.

Service capacity required over and above Council's standard service is to be supplied by a private contractor. Estimated generation rates for each commercial unit should be described in the WMP and appropriate volumes of infrastructure shown on the plans. IF this cannot be demonstrated the assessment will assume a high generation business (such as a food premise) and require infrastructure to support the high generation.

Residential and Commercial Bin Storage Areas:

Areas to address with the residential bin storage area:

- Bin lift equipment is required to decant the 240L recycling bins into the bulk bins for collection, the storage of this is to be shown on the plans.
- The stacking of the bins will significantly slow the collection process. Additional space for manoeuvrability is required.
- Bins need at least 15cm gap between bins to fit.
- The capacity of the bins at the base of the chute is less than 48 hours, as such a caretaker will be required on a Saturday afternoon and a Monday morning. Alternatively, the building can construct a carousel system for the bins which will automatically rotate the bins over the weekend (This is preferable).
- The building is eligible for additional recycling services (such as electronic waste and clothing) to allow for these collections an additional 9sqm of bin storage area is required.

Areas to address with the Commercial bin storage area:

- The bins for the retail premises are not shown on the plans. With the additional retail spaces there is a need for a significant increase in the space for the bins. Each commercial unit should be able to have space to store their own waste bins (either the council bins or additional) shared bins for commercial units unfairly distribute costs between low (office) and high (food premise) waste generators.
- Currently there are only 12 x 1100L bins shown on the plans. This will only manage the waste from the super market for two days. The updated WMP is required to complete an assessment on the other commercial wastes.

- Retail bins are to be accessible to the retail staff. The stacking of the bins in the current commercial bin room will prevent access and be a safety risk to the people working in the site.
- There is also limited access to the bin room directly from the shops. The following will improve this issue
 - Back doors to the shops accessing the service corridors to prevent the transport of waste through public spaces
 - A commercial waste room on the ground floor of each tower, with the caretakers moving them to the collection point for servicing. This is to be sufficient to house the bins for the retail tenants in that tower. If the WMP cannot show proposed use types, a food premise and generation rate will be used.
- Other wastes such as cooking oil should be considered as these will be difficult to transport to the waste collection room.

Bulky waste

Bulky waste room is acceptable in the current design. Due to the close proximity to the loading zone bulky waste will be collected directly from the room.

Conditions of consent will be placed upon the development that a caretaker is to assist in the transport of waste to the bulky waste room, to compensate for the long carting distance for the residents in the front towers.

Bin-carting Route / Collection Point

The submitted plans do not meet the requirements of the Part B2.9 of CDCP.

Areas to address:

1. The bin carting route traverses the public space, which while not against the CDCP is not the best outcome.
2. The caretaker is unable to cart the 660L bin though a pinch point at the garden bed in the plaza. All points of the carting route are to be a minimum 1.2m (CDCP, or 2m best practice)

Waste Chute System:

Areas to address:

1. Northwest tower has bin chute markings that run through a wall. This needs to be corrected.

On-site collection:

Areas to address:

1. Loading from the turntable is unacceptable as will block other users (deliveries) as well as issues with being blocked. Garbage trucks cannot que for access.
2. There will be a minimum of 20 garbage truck movements onsite each week (2 x residential garbage, 2 x residential recycling, 7 x supermarket garbage, 7 x supermarket recycling , 1 x commercial garbage, 1 x commercial recycling) , these will take around 30 minutes each, totalling at least 10 hours a week of the loading dock taken up with waste services, these will commonly want to occur at similar times (between 6am and 12pm)
3. The turn table appears to intersect with the residential waste room and its doors.

- **Spatial Planning**

Spatial Planning reviewed the application (including letters of offer) and raised no objection, subject to conditions of consent should the application be recommended for approval.

- **Environmental Health**

Council's Environmental Health Officer reviewed the application and raised no objection, subject to conditions of consent should the application be recommended for approval.

- **Tree Management**

Council's Tree Management Officer reviewed the application and raised no objection, subject to conditions of consent should the application be recommended for approval.

- **Building**

Council's Building Surveyor reviewed the application and raised no objection, subject to conditions of consent should the application be recommended for approval.

- **Urban Design**

Council's Urban Design team raised no objection to the proposal.

- **Sydney Water**

Within the response received from Sydney Water dated 24 August 2020, no objection was raised. The letter noted that a Section 73 Compliance Certificate would need to be obtained from Sydney Water. This requirement would be conditioned should the application be supported.

- **Ausgrid**

Within the response from Ausgrid dated 15 July 2020, no objection was raised subject to conditions of consent should the application be supported.

- **Transport for NSW**

Within the response from Transport for NSW dated 5 November 2020, no objection was raised subject to conditions of consent outlined in the Transport for NSW response dated 7 July 2020 being incorporated into any consent, should the application be supported.

- **Natural Resources Access Regulator (NRAR)**

The application was referred to NRAR given there was concern that a Controlled Activity Approval was required. As outlined within the response received from NRAR dated 30 June 2020, the proposed works are exempt from the need to obtain a controlled activity approval and no further assessment by this agency was necessary.

- **Sydney Trains**

Within the response from Sydney Trains dated 25 February 2019, no objection was raised subject to conditions of consent should the application be supported.

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

The Canterbury Development Contributions Plan 2013 applies to the site. However, given the application is recommended for refusal, such contributions have not been calculated.

Planning agreements [section 4.15(1)(a)(iia)]

Letters of Offer were submitted to Council with the intent to enter into a Voluntary Planning Agreement with Council, should development consent be granted. The letters of offer were in relation to:

- The dedication of the area of land measuring 173sqm and the following works:

- 3m wide pedestrian footpath.
- 3m wide slip lane for the full length of the development site.
- The construction of a new 6.75m (kerb to kerb) wide laneway and a 1.8m footpath along the eastern boundary of the site to provide vehicle access to 76 King Georges Road. The laneway, once constructed, would be dedicated to Council.

The letters of offer were referred to Council's Spatial Planning Team who raised no objection to the letters of offer, subject to conditions of consent. However, as raised within this report, concern was raised in regards to the design of the laneway by Council's Infrastructure Engineer as well as Council's Development Engineer, which form part of the recommended reasons for refusal of this application. The concerns raised by Council's Infrastructure Engineer and Council's Development Engineer are likely to have further implications on the area to be dedicated which in turn would require amendments to the letters of offers submitted.

The regulations [section 4.15(1)(a)(iv)]

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 4.15(1)(b)]

The key potential impacts of the development have been discussed through-out this report. Apart from those matters already addressed, the following likely impacts are considered:

Acoustic Impacts

Majority of the potential acoustic impacts have been discussed within the relevant sections of the report above. In addition to the matters discussed, the potential acoustic impacts of the new rear laneway, driveway and loading dock on the residential within the site as well as on adjoining sites has been considered.

In summary, the Acoustic Report prepared by Renzo Tonin and Associates recommended the following:

- *Provide a solid fence with minimum height of 3m between driveway and existing residential neighbour to the north-east. Acceptable fence materials are Colorbond, fibre cement, Hebel, lapped and capped timber.*
- *Balconies of Buildings 02A & 02B apartments from Levels 1 to 3 facing north-east shall be winter gardens as indicated in Table 5 and Figure 7 to provide additional level of acoustic shielding from noise associated truck movements and dock activities.*
- *Provide a minimum 300mm thick concrete slab separating the loading dock and apartments above*
- *Soffit of concrete slab separating loading dock and apartments above shall be acoustically treated with sound absorptive material such as 50mm Pyrotek Sorber Poly 2D or 50mm Reapor,*
- *Wall surfaces inside loading dock shall also be acoustically treated with sound absorptive material such as 50mm Pyrotek Sorber Poly 2D or Reapor from height of 2m extending to ceiling line.*
- *Lower section of wall surfaces inside the loading dock should be acoustically treated with minimum 20mm thick rubber/neoprene pads adhered to the perimeter walls to a height of 1.5m off the finished floor to dampen impacts onto walls and minimise transfer of structureborne transfer.*
- *Operation of turn table shall be inaudible in any habitable space.*
- *Stormwater grates located in driveways and driveway ramps shall be vibration isolated using minimum 10mm thick rubber pads.*

- *Low-profiled rubber/neoprene speed humps shall be used through-out the basement carpark including driveways with recommended maximum vehicle speed limit of 10km/hr. Speed humps shall be firmly fixed to structural floor. Concrete-formed speed humps are not recommended.*
- *Expansion joints at bottom ramp shall be fitted with a rubber-based joint cover that is flush with the surface of finished floor such as Zip Block (ZB) EPDM rubber joint covers.*
- *Provide a minimum 200mm thick slab separating ramp and apartment above*
- *Underside of concrete slab separating ramp and apartments above shall be acoustically treated with sound absorptive material such as Envirospray 300. Treatment shall extend at least 3m into the basement carpark at bottom of the ramp.*
- *The acoustic fence recommended in Section 8.1.3 will assist in shielding break-out noise to residential neighbours on the north-east boundary.*

The above recommendations have been incorporated into the design, as required. Should the application be recommended for approval, the recommendations could also form part of the conditions of consent.

Wind Impacts

A Pedestrian Wind Environment Statement prepared by Windtech Consultants Pty Ltd was prepared to understand the likely impact of the proposed development on the local wind environment at the critical outdoor areas within and around the subject site.

Although no wind testing was undertaken as part of the assessment, the report considered the existing wind effects and any localised effects that were identifiable by visual inspection. The conclusions of the report were drawn from the findings of this assessment and from the extensive experience in the field. For the purposes of this assessment, this methodology is considered acceptable.

In summary, the results of the assessment concluded the subject development benefits from shielding provided by the subject and neighbouring building as well as the use of effective wind mitigating features in the design (such as recessed balconies, full-height privacy screens, impermeable balustrades and blade walls).

It was identified that there could be potential impacts on the wind comfort within certain areas within the development due to wind effects generated from the interaction of the prevailing winds with the development built-form. However, it was determinate that these potential effects could be ameliorated through incorporating the following into the design:

- *Ground Level Areas:*
 - *The retention of the proposed awning along the Lakemba Street and King Georges Road frontages of the site as indicated in the architectural drawings.*
 - *The inclusion of the proposed densely foliating street trees along the Lakemba Street and King Georges Road frontages of the site as indicated in the architectural drawings; in particular the street trees around the corners of Buildings 01 and 02.*
 - *The inclusion of the proposed densely foliating trees north-eastern and south-eastern boundaries of the site as indicated in the architectural drawings.*
 - *The inclusion of the proposed densely foliating trees and shrubs/hedge planting within the proposed planter areas along the through-site pedestrian footpath as indicated in the architectural drawings.*
 - *The inclusion of densely foliating vegetation such as trees or shrubs/hedge planting along the entrance walkway from the King Georges Road frontage of the site.*

- *Restrict areas intended for short duration stationary activities such as outdoor seating, away from the corner areas of the building.*
- *The inclusion of localised screening, pergolas or densely foliating vegetation such as trees or shrubs/hedge planting within and around the pedestrian walkways; in particular areas intended for short duration stationary activities such as outdoor seating etc. The north-eastern entrance of the through-site link between Building 02 and the King Georges Road entrance of the through-site link between Building 01 are susceptible to accelerating flows and funneling wind effects, hence these entrances can also benefit from the inclusion of additional wind mitigation elements detailed above*
- **Private Balconies**
 - *Retention of the proposed balustrades, blade walls and full-height privacy screens as indicated in the architectural drawings.*
 - *Consideration of louver screens along of the expose perimeter edges of the upper corner balconies; in particular those along the Lakemba Street frontage and southwestern aspects on Levels 5 and above.*
- **Level 7 Communal Outdoor Spaces – Building 02**
 - *The inclusion of blade walls separating the outdoor terraces with the adjacent private balconies as detailed in the architectural plans.*
- **Rooftop Communal Outdoor Spaces – Buildings 01 and 02**
 - *The inclusion of densely foliating vegetation such as trees or shrubs/hedge planting within the proposed planter areas around the communal outdoor spaces as indicated in the architectural drawings; in particular those along the perimeter edge of the communal outdoor spaces.*
 - *The inclusion of localised screening, pergolas or densely foliating vegetation such as trees or shrubs/hedge planting within and around the communal outdoor spaces; in particular areas intended for short duration stationary activities such as child play areas and outdoor seating etc.*
 - *Restrict areas intended for short duration stationary activities such as outdoor seating, away from the corner areas of the building.*
- *Note the densely foliating vegetation is to be of an evergreen species to ensure their effectiveness in wind mitigation throughout the year.*
- *The inclusion of additional wind mitigation elements such as baffle screens, pergolas and densely foliating vegetation such as trees or shrubs/hedge planting within the various outdoor trafficable areas; particularly around areas intended for short duration stationary activities such as within the child play areas and outdoor seating along the pedestrian walkways and communal outdoor spaces etc., is expected to be effective in further enhancing the localised wind conditions.*

The abovementioned recommendations have been incorporated into the design and could be further enforced via condition of consent should the application be supported. Furthermore, should the application be supported, a condition of consent could be imposed to ensure appropriate wind tunnel testing is undertaken once the development is constructed and should the recommendations of the report need to be amended, further approval should be sought to incorporate any additional mitigation measures (if required).

Economic Impacts

A Retail Impact Assessment (and associated review) prepared by Urbis accompanied the application. In summary, the report found that:

- There is sufficient population growth within Wiley Park that is driving demand for additional retail as proposed as part of the proposed development.
- The development will not result in any adverse competitive impacts on existing centres (including regional and sub regional shopping centres, supermarket centres and smaller retail strips).

- The proposal would generate approximately 115 direct jobs and 205 indirect jobs over the construction phase.
- The proposal would generate approximately 124 direct operational jobs. These direct jobs are estimated to include a further 26 indirect supply chain jobs both within and beyond the trade area as a result of flow-on effects.

In light of the above, the report concludes that the proposed development will not result in any significant adverse economic impacts. Council has reviewed the report and does not oppose to the findings of the Retail Impact Assessment.

Infrastructure

The Applicant was requested to provide written “In Principle” agreement to the relocation of the following services prior to the issue of consent for the development:

- Telstra
- Ausgrid
- Jemena Gas
- Sydney Water
- RMS for Traffic Signals
- Canterbury Bankstown Council for road, drainage and traffic signs.

The Applicant submitted a Utility Services Investigation Report prepared by LP Consulting to address the above. It is noted that the report incorporates the requested “In Principle” agreement from the relevant authorities with exception of Sydney Water.

The Application was referred to Sydney Water by Council as part of the notification process. Within the response received from Sydney Water dated 24 August 2020, no objection was raised. The letter noted that a Section 73 Compliance Certificate would need to be obtained from Sydney Water. This requirement would be conditioned should the application be supported.

National Construction Code

Council’s Building Surveyor reviewed the application and raise no objection, subject to conditions of consent.

Proposed excavation works

The proposed development involves excavation and construction works in close proximity to property boundaries and neighbouring properties. Should the application be recommended for approval, relevant conditions requiring the applicant to provide a dilapidation report for the adjoining properties, prior to the issue of the Construction Certificate could be included on any consent issued. Should any damage to adjoining properties result from the proposed excavation works at the subject site, the applicant would be required to rectify all damages.

Sediment and Erosion Control

Standard conditions could be included regarding the installation and maintenance of the sediment and erosion control measures as part of the pre and during construction phase of the development, should the application be supported.

The development will involve excavation of part of the site to accommodate the development. Any excavated material not utilised elsewhere on the property, will require proper disposal and transport in accordance with the Waste Avoidance and Recovery Act, and the Protection of the Environment Operations Act. A condition could be imposed in this regard should the application be recommended for approval.

Suitability of the site [section 4.15(1)(c)]

The application has been assessed under Section 4.15 of the Act. It is acknowledged that the Applicant has addressed some concerns previously raised by Council. However, as demonstrated throughout the body of this report, the design seeks a number of variations to key development controls. The application is also deficient of information to enable a detailed and thorough assessment against a number of key controls. Furthermore, the additional information required to facilitate a detailed assessment may result in further design changes, particularly in regard to the matters raised by Council's Waste, Development Engineering, Traffic and Infrastructure departments.

As a result of the number of variations sought coupled with the lack of information submitted, the site is not considered suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was originally advertised for a period of 28 days between 17 January 2018 and 15 February 2018. No submissions were received during this period.

The application was readvertised between 29 January 2019 - 27 February 2019. No submissions were received during this period.

The application was readvertised between 1 July 2020 - 28 July 2020. Two submissions were received during this period.

The application was readvertised for a final time between 14 October 2020 – 10 November 2020. No submissions were received during this period.

The matters raised in the two submissions received are discussed below:

Objection: Generally supportive of the application however 170 apartments is considered an "extreme amount".

Comment: The amended design now comprises 150 apartments. However, for the reasons outlined within the assessment report, the proposed design is not supported.

Objection: Concern that the development will result in adverse traffic and parking impacts.

Comment: The design incorporates sufficient parking within the site to cater for the proposed retail and residential use. Council's Team Leader Traffic and Transport have raised concern in regard to the potential traffic impacts resulting from the proposal. This forms part of the reasons for refusal.

Objection: Additional parking should be provided for the two-bedroom apartments.

Comment: The design complies with the minimum parking requirements for two-bedroom apartments.

Objection: Adequate visitor parking spaces should be provided.

Comment: The application complies with the minimum visitor parking requirements.

Objection: Greenery or privacy screening should be incorporated along the eastern elevation of the eastern building to improve visual appearance of the site to adjoining properties.

Comment: Privacy screens have been incorporated in the design along the eastern elevations of Building 2A and 2B. Furthermore, landscaping has been incorporated along the eastern elevation on the rooftop.

Objection: Does not support the design unless the amended plans application generally conforms to the design criteria (within 10%) of the ADG Apartment Design Guides design quality principles regarding building height, depth, visual privacy, natural ventilation and communal open space.

Comment: For the reasons outlined within the assessment report, the proposed variation to the maximum building height development control specified within Canterbury Local Environmental Plan 2012 as well as the proposed variations to the apartment depth, natural ventilation requirements outlined within the Apartment Design Guide are not acceptable and forms part of the reasons for refusal.

Objection: Request the planning panel to also take into consideration Bankstown City Council's Development Control Plan page 39(a),(c) & 9.1 in relation to the above-mentioned amended plans application.

Comment: The Bankstown Development Control Plan 2015 does not apply to the site. The design has been considered against the controls outlined within the Canterbury Development Control Plan 2012 as it is located within the former Canterbury Council area.

The public interest [section 4.15(1)(e)]

Approval of the proposed development would not be in the public interest. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by ensuring that any adverse impacts on the surrounding area and the environment are avoided. The matters raised in the public submissions, which are also similar to those raised by Council, reinforce that the development will result in unreasonable impacts on the locality and result in an undesirable precedent for future development.

CONCLUSION

The Development Application has been assessed pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 and all relevant State Environmental Planning Policies, development control plan, codes and policies.

The proposal seeks to depart from Clause 4.3 relevant to the 'height of buildings' standard under the CLEP 2012, with the highest breach being 2.16m (8%). The applicant's written submission under Clause 4.6 of CLEP 2012 has been assessed and it is considered that the breach to the development standard relating to the building height is not acceptable in this circumstance.

As outlined within the body of the report, the current design also seeks a departure from a number of planning controls including controls relating to solar access, natural ventilation and apartment design which are considered to adversely impact on the amenity afforded to future residents of the site. Support of the extent of variations sought would also result in a design that is inconsistent with the character envisaged for the locality.

Furthermore, the application is deficient in information to address concerns raised by Council's Traffic, Waste, Development Engineer and Waste departments. The outstanding matters raised by these departments would likely result in further redesign of the proposal to achieve compliance. The Applicant has been provided a number of opportunities to address the matters raised throughout the duration of the assessment process.

It is therefore recommended:

THAT the Sydney South Planning Panel refuse Development Application No. DA-484/2017 for the demolition of existing structures, removal of trees and construction of four x eight (8) storey shop top developments with 150 residential apartments, basement parking, laneway dedication and associated landscaping at 280-300 Lakemba Street and 64-70 King Georges Road, Wiley Park being the subject lots legally described as Lot A, DP962951, Lot A, DP402053, Lot B, DP402053, Lot 1, DP 501587, Lot 2, DP 501587, Lot 3, DP 501587, Lot 2, DP6970, Lot 2, DP 206965, Lot 1, DP 124635, Lot 1, DP124613 and Lot 1, DP 124636 pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979 for the reasons set out below.

RECOMMENDATION

THAT pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, the Sydney South Planning Panel, for the reasons set out below refuse Development Application No. 484/2017.

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application does not comply with Clause 50(1AB)(a) of the Environmental Planning and Assessment Regulation 2000 as the Design Verification Statement submitted does not comprise a statement that the qualified designer verifies that he/she designed, or directed the design, of the development.
2. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.3 (2) of the Canterbury Local Environmental Plan 2012 relating to 'Height of buildings' and exceeds the allowable height of building of 27m.
3. The Clause 4.6 Request to vary Clause 4.3(2) 'Height of buildings' of the Canterbury Local Environmental Plan 2012 is not well founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application is not consistent with State Environmental Planning Policy No 65- Design Quality of Residential Apartment Development with respect to Schedule 1 Design Quality Principles. The proposed development does not meet Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density and Principle 6: Amenity.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application fails to comply with the solar access requirements contained within Part 4A of the Apartment Design Guide in accordance with Clause 28(2)(c) of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.
6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application fails to comply with the minimum natural ventilation requirements contained within Part 4B of the Apartment Design Guide in accordance with Clause 28(2)(c) of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.

7. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application fails to comply with the maximum habitable room depth requirements contained within Part 4D of the Apartment Design Guide in accordance with Clause 28(2)(c) of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.
8. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development application fails to comply with the minimum master bedroom area requirements contained within Part 4D of the Apartment Design Guide in accordance with Clause 28(2)(c) of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.
9. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to allow a proper and thorough assessment of the design against the provisions outlined within Clause 6.4 – Stormwater Management of Canterbury Local Environmental Plan 2012.
10. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to allow a proper and thorough assessment of the design against the provisions outlined within Clause 6.6 – Essential Services of Canterbury Local Environmental Plan 2012.
11. The proposed development is unsatisfactory, pursuant to the provisions Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and controls of the Canterbury Development Control Plan 2012 (CDCP 2012) including:
 - a. Part B1 – Traffic and Parking
Insufficient information has been submitted to allow a proper and thorough assessment of the application against the relevant traffic and parking controls outlined within Part B1 of CDCP 2012.
 - b. Part B5 – Stormwater and Flood Management
Insufficient information has been submitted to allow a proper and thorough assessment of the application against the relevant stormwater controls outlined within Part B5 of CDCP 2012.
 - c. Part B9 - Waste
Insufficient information has been submitted to allow a proper and thorough assessment of the application against the relevant waste controls outlined within Part B9 of CDCP 2012.
 - d. Part C5 – Shop Top Housing
The layout and orientation of the development requires further consideration to ensure the residential apartments within the design receive adequate solar access and natural ventilation pursuant to Part C5.2.1.4(C1) and (C5).
 - e. Part D1 – Business Centres – General
Majority of the ground floor retail tenancies (15 of the 19 tenancies) do not meet the minimum 10m depth requirement pursuant to Part D1.3.5(C1).
12. Insufficient information has been submitted to address concerns raised by Council's Infrastructure Specialist and subsequently a detailed assessment of the likely impacts of the development pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 could not be determined.
13. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been

provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.

14. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.